consumers on how to save energy and provide energy audits to guide wise investments in energy saving modifications by homeowners, businessmen, and manufacturers.

Surely such modest proposals to guide energy users to improved efficiency would be expected to gain the support of an Administration committed to a Project Independence program.

Yet when hearings were held on the Energy Conservation Act in February, the White House sent a Federal Energy Administration spokesman to tell the Congress that the Energy Conservation Act is "premature," and that any major public policy initiative in the area of energy efficiency "ought to be preceded by sound analysis of consumer and industrial behavior, which could give us some indication of the effectiveness of measures to promote energy conservation."

Just think about that advice for a moment. That's like telling a person who is hemorrhaging from an open wound to sit back and study the problem rather than stifling the bleeding. The truth is, of course, that major public policy initiatives to reduce energy waste are not premature; they are long overdue.

In addition to the footdragging on energy efficiency initiatives represented by its budget priorities and its opposition to the Energy Conservation Act, a third White House policy which illustrates the White House energy efficiency gap is the Ford-Rockefeller proposal for a $100 billion Energy Independence Authority. Although the White House opposes the Energy Conservation Act's encouragement of investments in energy efficiency, it supports the EIA, which would allocate capital to synthetic fuels plants, uranium enrichment, atomic fuel reprocessing, and the federal purchase of atomic power plants for lease to electric utilities. This proposal should be called the "Energy Cartel Subsidy Act," since its basic purpose is to subsidize our domestic energy cartel.

The EIA is the preeminent example of the Ford Administration's general policy of favoring programs which divert scarce capital to energy producers as the primary answer to our energy problems. Although the departing Roger Sant has repeatedly testified and lectured that a barrel of oil saved is as good as a barrel produced, the White House isn't listening.

Many experts are now talking about energy saving investments that can save a barrel of oil equivalency at a cost of only a few dollars rather than the current average price of $11 per barrel of oil in this country. For example, the American Institute of Architects, which will be represented on two panels Friday morning, has calculated that investments in improving the energy efficiency of new and existing buildings sufficient to save 12 million barrels of oil a day by 1990 would be a much more productive use of scarce capital than investments in traditional centralized energy supply systems during the same period. Other experts appearing on panels today and tomorrow have demonstrated many opportunities to save energy through investments that effectively "produce" energy at surprisingly low costs.

White House footdragging on energy efficiency and efforts to allocate vast amounts of scarce capital to energy supply systems may please the energy industry, but such policies are not in the national interest. Investment in uneconomic energy supply options such as atomic power is actually increasing our need for imported oil. This occurs because our energy use is so inefficient that more energy could be saved by investing a given amount of money in needed energy efficiency improvements rather than in atomic power and other expensive energy supply systems. Today the loss in capital efficiency represented by investments in atomic power is being made up by importing more oil. In the future, the Ford Administration's EIA would try to reduce oil imports by investing even more capital in relatively inefficient energy supply systems. That is, inefficient investments would be piled upon inefficient investments.

The preferable alternative is to encourage more capital efficient investments in energy efficiency. Panelists at this conference will be describing many opportunities for cost effective investments in energy efficiency improvements in both existing and new buildings and industrial processes. At Ohio State University, for example, modifications of six campus buildings have cut electricity use by one third and natural gas use by two thirds at a cost which was repaid in less than eight months.

In addition to reducing our need for imported oil, investments in energy efficiency can improve our economy by reducing inflation through improved economic efficiency and, in the opinion of many experts, increase employment because energy efficiency investments tend to create more jobs than energy supply investments.

The persistence of the White House support for policies that would divert capital into less productive energy supply investments in preference to policies that would promote energy efficiency investments is, in short, a policy of less bang for the buck. Such a policy is based on the White House's undue reliance on the energy supply industry for guidance on energy policy. It is time for the White House to hear from experts in the field of energy efficiency, such as the panelists and many members of the audience at this conference. Since ERDA and FEA are presumably knowledgeable in this area, the weak link must be at the White House and its Office of Management and Budget. Therefore, following this conference, I will request a future meeting between representatives of the White House and several of the panelists and other experts attending the conference to familiarize the White House with the reasons why energy efficiency should be a national priority in fact as well as in name.

HOUSE OF REPRESENTATIVES—*Monday, June 7, 1976*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*Render to all their dues: tribute to whom tribute is due * * * honor to whom honor.*—Romans 13: 7.

Almighty God, our Father, may this be a day of tender recollection as we gather here having heard the word that our beloved Speaker has decided to retire at the end of this year. Before Thee and in the presence of our visitors we would give tribute to him who deserves our tribute and honor to him who merits all the honor we can give him. Always will we remember him with genuine and grateful affection. We think of his nobility of character, his devotion to his party and his country, his generous good will to all, his life as a genuine good man, and his faith in Thy presence in the human heart.

Father, this is a little prayer on behalf of a great man whom we pray will live a long time enjoying the benefits of a life well lived and well spent. "He most lives who thinks most, feels the noblest, acts the best."

Hear us in the spirit of Him who gives life to all, Jesus Christ, our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On June 4, 1976:

H.R. 8719. An act to provide for an amendment to the Washington Metropolitan Area Transit Regulation Compact to provide for the protection of the patrons, personnel, and property of the Washington Metropolitan Area Transit Authority;

H.R. 12132. An act to extend as an emergency measure for one year the District of Columbia Medical and Dental Manpower Act of 1970; and

H.R. 12453. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

On June 5, 1976:

H.R. 9630. An act to extend the Educational Broadcasting Facilities Program and to provide authority for the support of demonstrations in telecommunications technologies for the distribution of health, education, and public or social service information, and for other purposes.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

PROVIDING FOR REAPPOINTMENT OF JAMES E. WEBB AS A CITIZEN REGENT OF BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

The Clerk called the joint resolution (H.J. Res. 863) to provide for the reappointment of James E. Webb as a citizen regent of the Board of Regents of the Smithsonian Institution.

There being no objection, the Clerk read the joint resolution as follows:

H.J. RES. 863

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur by the expiration of the term of James E. Webb, of Washington, District of Columbia, on May 18, 1976, be filled by the reappointment of the present incumbent for the statutory term of six years.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a

motion to reconsider was laid on the table.

Mr. SCHULZE. Mr. Speaker, I ask unanimous consent that further reading of the Censent Calendar be dispensed with.

The SPEAKER. The Chair is not clear as to whether the gentleman from Pennsylvania desires to suspend with the second bill, S. 532, or with the third bill on the calendar?

Mr. SCHULZE. Mr. Speaker, I desire to dispense with the continuation of the two remaining bills.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

RETIREMENT OF SPEAKER CARL ALBERT

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, my close personal friend, the distinguished current occupant of the chair as Speaker of the House of Representatives, we all understand that last Saturday you announced that you have made the decision to retire at the end of this session of Congress. May I say your absence will be greatly felt by your many friends in this body.

Few men have served the House with the devotion and ability of CARL ALBERT. He has been, without doubt, one of the great Speakers in the history of this House.

Under Speaker ALBERT's leadership the Congress passed through the gravest constitutional crisis since the Civil War and emerged, not weakened by the ordeal, but greatly strengthened and revitalized.

As the House moved toward the impeachment of President Nixon, a single mistake could have brought disastrous consequences for the Congress and the Nation in its wake. But under Speaker ALBERT there was no mistake. The matter was handled with absolute fairness and integrity, which have characterized all of the Speaker's dealings, and justice, for which the Nation so deeply yearned, was done. The transition was accomplished to the admiration of all of the nations of the world.

The magnificently competent handling of the impeachment crisis by the Speaker by no means stands alone among this man's accomplishments in the House. It was preceded, for example, by the passage of the Budget and Impoundment Control Act. That act, the most far-reaching legislative reform proposal of our generation, restores to the Congress its constitutional prerogative of control over spending priorities.

Following the impeachment crisis, an ordeal which would have left most leaders exhausted of their creative potential, the Congress under the leadership and guidance of the Speaker went on to fashion yet more creative, new legislation. For example, we passed the War Powers Act, a measure designed to restore proper balance between the executive and legislative branches in the conduct of foreign relations.

Without the House the creative energies of this Speaker have also been turned toward reform. While a Speaker cannot by himself create reform, he can do much to channel its direction. It is a tribute to the wisdom of this Speaker that the House is now a far more open and effective body than when he took office 5½ years ago.

Great as they are, Speaker ALBERT's legislative accomplishments are but a small fraction of his contribution to this House. His warmth, his gentleness, his humanity, his steadfast friendship, and his willingness to spend a moment at any time to help a Member with a personal or political problem are but a few of the qualities for which this man will long be loved and remembered. In personal relationships, as well as legislative accomplishments, CARL ALBERT has set the standard by which Speakers of the House will be measured for a hundred years to come.

Speaker ALBERT has stated that he wishes to spend more time with his family and his friends. While we cannot fault him for that, we can assure him that when he leaves the House, he will be deeply missed by the Nation and by the Members of this body who have been privileged to know him as both their leader and their trusted friend.

The door will always be open for Speaker ALBERT, a warm welcome will always await him on the floor of this House or in any office to which he wants to come.

My wife joins me, and all of my staff join me in saying to Speaker ALBERT good luck and Godspeed. May retirement just be the commencement of a happy and fuller life for you and Mary to spend together.

SPEAKER ALBERT HAS PERFORMED HIS DUTIES NOBLY

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time to associate myself with the remarks just made by the distinguished majority leader concerning the Speaker's announcement over this weekend. It is not often that a Speaker retires and it is always a solemn occasion when this occurs because of course it signifies the changing of the guard and a new regime to come in on the heels of a regime which we have all come to know and to trust. I have no feelings of fear or trepidation concerning the type of leadership that my colleagues on the other side might choose if they are in the majority. I have my doubts that they will be. But nevertheless if they are I am sure they will choose as wisely as they have in the past.

But, Mr. Speaker, the personal friendship which I have for you and for your fine wife Mary cause me to think that this is the ending of an era not only in your lives and in the history of the House of Representatives but also more intimately in the lives of Betty and me. We treasure your friendship and we always will.

As far as I am concerned the people of this country have much to thank you for. They are thankful for the many years which you spent in the House of Representatives as a distinguished Member from the State of Oklahoma, the years you spent as majority whip, and the years which you spent as majority leader and then as Speaker, the highest office to which any Member of the House can aspire. You have performed your duties nobly. The Speaker of the House is in every way an officer of the House. He has a party function but he also has a broader function which transcends the center aisle, and you, Mr. Speaker, have fulfilled this function as well as any person ever has since I have been privileged to be a Member of this House.

So as you and Mary go into another phase of your lives, I wish you the very best of everything. I assure you of my friendship and my admiration for you, and I wish you Godspeed.

MAJORITY WHIP JOHN J. McFALL SAYS HOUSE IS LOSING A GREAT SPEAKER

(Mr. McFALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McFALL. Mr. Speaker, it is with mixed emotions that we hear of the retirement of CARL ALBERT at the end of this Congress following 30 years of distinguished service in the House and 6 years as a great Speaker.

It is with sadness we accept the fact that the Speaker will be leaving us.

It is with gladness that we know he will be taking his well-earned retirement in the State of Oklahoma he so loves.

Speaker ALBERT will be recognized as one of the great Speakers in the history of the House and one of the ablest public servants of the 20th century.

The Speaker has met the test of leadership; he has effectively led the House in a turbulent and difficult period. He gets things done—not by fiat or regimentation, but by tireless work, by scrupulous fairness, by painstaking efforts behind the scenes, by reconciliation and compromise in the highest sense of the word. The great records of the Congresses he has led tell his story best.

His leadership has been the driving force behind the great legislative records of the 94th Congress and its predecessors since 1970. During the difficult impeachment hearings of 1974, it was CARL ALBERT's leadership—both firm and fair—which guided the deliberations and reflected universal credit on the Judiciary Committee and the House. With CARL ALBERT as Speaker we enacted such milestone measures as the War Powers Act, the Budget Control Act, the tax reduction, jobs and energy measures of the 94th Congress, which jolted the Nation out of its long and deep recession. More than anyone else in the Nation, Speaker ALBERT deserves the credit for leading the Congress to enactment of this bold economic legislation which has triggered our recovery

and given hope and security to millions of Americans.

Son of a coal miner in the poor, red hills country of Oklahoma, Rhodes scholar, distinguished political leader, and great Speaker of the House, CARL ALBERT will be profoundly missed but not forgotten.

TRIBUTE TO SPEAKER ALBERT UPON ANNOUNCEMENT OF HIS RETIREMENT

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, I also want to join in the remarks of the distinguished majority leader, the distinguished minority leader, and the distinguished majority whip and to add my own to the many tributes that I know will be paid to the Speaker on the occasion of the announcement of his retirement as the Speaker of the House of Representatives.

I shall not here speak long, but I should like now only to say that I am grateful for the unfailing personal kindness and graciousness that, Mr. Speaker, you have always extended to me in every situation and to thank you, sir, for the confidence that you have placed in me in the responsibilities you have assigned me.

And I want, Mr. Speaker, to commend you for the three decades of constructive achievement that your service in the House of Representatives represents. Few Members of this body will be able in later years to look back on such outstanding service as CARL ALBERT, of Oklahoma.

I count myself proud, Mr. Speaker, to call myself your friend. I wish to add my own words of warmest good wishes to you and Mrs. Albert in whatever you now undertake to do.

RETIREMENT OF SPEAKER CARL ALBERT

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, my emotions are unmixed in receiving this news. It was a shock and I have a sense of personal loss which I feel very deeply. However, I must say also that I think our country is losing such a fine Representative. We have been fortunate, Mr. Speaker, and I have been proud, that you spoke for our country. I have been proud to see you in many difficult and long negotiations with foreign nations, here and abroad; that you represented us fully and fairly always—both sides of the aisle—rising above any kind of partisanship in speaking for our Nation.

It was a good day when Oklahoma sent you here and you will be greatly missed on both sides of the aisle, Mr. Speaker. Thank you.

RETIREMENT OF SPEAKER CARL ALBERT

(Mr. STEED asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEED. Mr. Speaker, on behalf of myself and my Oklahoma colleagues in the House and for the people of Oklahoma, may I say that we received this announcement of our Speaker's intention to retire with strong mixed emotions. Of course, we were saddened at the loss of the services of our most distinguished citizen, a man who has given great service to the Nation and even greater service to our State; but we were at the same time made happy for his intention to go from this place back to his native State and to become our most distinguished private citizen. We are happy for him, because we know how well he has earned the right to give up these heavy burdens that he now carries and to seek a more full and peaceful private life. We would not want to deny that to him, although we so keenly feel our loss as he leaves us.

Later on I will have a special order so that all Members who feel as I do can join with me in paying tribute in more detail to this great leader.

In the meantime, may I just tell the Speaker that as he goes on retirement and learns a different way of life that he will try to keep in the back of his mind the thought that, "Oh, Tom, I'm just preparing the way for you."

RETIREMENT OF SPEAKER CARL ALBERT

(Mr. WEAVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEAVER. Mr. Speaker, I would as a new Member like to confirm, and associate myself with, the remarks of the leadership and your colleagues of long standing. I have been proud to serve in this body under your leadership.

RETIREMENT OF SPEAKER CARL ALBERT

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, I want to take a brief moment on the announcement of your retirement to express my feelings of gratitude for your services in this House. Although the leadership on both sides of the aisle and others who have spoken here have adequately expressed the feelings all of us have for you, Mr. Speaker, I could not let this moment pass, even though I will say more on the special order, without publicly expressing my thanks to you for your leadership, for your dedication, for the sacrifices you and your wife and your family have made on behalf of our country.

I also want to thank you personally for your advice and support to me as a Member of Congress in helping me do my best to represent my constituents.

RETIREMENT OF SPEAKER CARL ALBERT

(Mr. SMITH of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Iowa. Mr. Speaker, I feel very strongly that all of the accolades that have been given here to the Speaker are very well deserved. I remember when the Speaker first ran for the speakership, he said that he would serve 8 years and then go home to Oklahoma. That would be 2 more years from now.

I believe so strongly in the things that Members on both sides of the aisle have said today that I hope the leadership on both sides of the aisle, led by the majority leader, the gentleman from Massachusetts, will publicly and openly urge the Speaker to run for one more term.

RETIREMENT OF SPEAKER CARL ALBERT

(Mr. CARTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARTER. Mr. Speaker, I guess our friendship began a few years ago when I heard, through the barber, that you might have a little problem with dandruff, and that my medicine relieved it.

I am thankful for that. I was pleased to be invited to go with you on the trip to Russia, I guess, as a result of that.

That same year, Mr. Speaker, I came across a little poem:

If with pleasure you are viewing
Any work a man is doing
And you like him, or you love him, say it now!
Don't withhold your approbation
Till the person makes oration
And he lies with snowy lilies o'er his brow.
For no matter how you shout it
He won't really care about it
He won't know how many tear drops you have shed.
If you think some praise is due him
Now's the time to hand it to him.

More than fame and more than money
Is the comment, kind and sunny
And the hearty warm approval of a friend;
Oh! it gives to life a savor
And strengthens those who waver
And gives one heart and courage to the end.
If one earns your praise—bestow it!
If you like him—let him know it!
Let the words of pure encouragement be said!

Mr. Speaker, we wish for you in retirement health, happiness, peace, and contentment.

Mr. MORGAN. Mr. Speaker, while not unexpected, the Speaker's announcement over the weekend of his decision to retire is a matter of regret to those of us who had hoped he would choose to serve at least a few years longer.

As one who also is retiring at the end of this session, after 32 years in the House, I think I can understand and

sympathize with his decision. For three decades, CARL ALBERT has devoted his life to public service for this House, for the Nation, and for his constituents. He has well-earned the right to return to family and private life.

CARL ALBERT is retiring as a man who has made a notable mark in American history—in one of the highest posts in the land, as head of the legislative body which we all love, and as a dedicated servant who upheld the values of this House throughout his career.

To me, CARL has been a friend as well as leader. I came to the House just one term ahead of the gentleman from Oklahoma.

Through the years, we have worked together on many issues of national and international concern. When he became majority leader in 1962, I was chairman of the Foreign Affairs Committee. I frequently relied on him for advice and assistance in obtaining passage of important legislation and in judging the desires of the House on various foreign policy questions.

While he and I did not always see eye to eye on some issues, I always felt these were honest differences. Never could he be accused of placing his personal interest above that which he thought best for this body.

So, in expressing regrets at the Speaker's decision to step down at the end of this year, I also wish to say, with emphasis, "Thank you, Mr. Speaker"—for all you have done for us, and for the Nation, over the years.

Mr. BENNETT. Mr. Speaker, I comment your on your excellent service as Speaker. I express, at the same time, my sorrow that you will be leaving the House and also the good thought that you will henceforth have the joys and contentment that will come to you with the passing from your shoulders of the heavy burdens of your important office. The job has become increasingly difficult; and you have done your job excellently. You and all your family should be proud of your service. The country should be forever grateful for your accomplishments for the national good.

Mr. ROUSH. Mr. Speaker, your announcement of retirement is received with mixed feelings.

Certainly after 30 years of faithful and dedicated service, both to your congressional district and to your country as a servant in the House of Representatives, you deserve the rest and relaxation which retirement will bring. But, you will be missed in the halls of Congress. our leadership has been of the highest order and in keeping with the finest traditions of the House. I personally have the beneficiary of your patience, your counsel, and your wisdom. For this I am grateful. May God bless you.

GENERAL LEAVE

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my 1-minute speech.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

OUTSTANDING MUSICAL ORGANIZATION VISITS CAPITAL

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LA GARZA. Mr. Speaker, it is with distinct pleasure and great pride that I call the attention of my colleagues to the presence later today of a tour to our Capital of one of the Nation's truly outstanding music organizations—the McAllen Senior High School Chorale from the 15th Congressional District of Texas.

McAllen is widely renowned for the high quality of its school musical program. The McAllen High Chorale, under the direction of Mr. Ed Hawkins, represents this program at it best. The group is in Washington in response of a special invitation to participate in the Bicentennial festival of a nation, performing in competition with other musical organizations from throughout the United States.

The 53 young people have had a busy and joyful weekend. On Saturday they appeared at a mass at St. Matthews Cathedral. On Sunday, they participated in the chapel service at Walter Reed Hospital, and managed to get in their share of sightseeing in the Nation's Capital.

Mr. Speaker, I congratulate the members of the McAllen High Chorale and Mr. Hawkins, their director, on their constant striving for excellence and the gratifying results the effort has brought. I welcome them warmly to Washington and to this House.

DISCHARGE OF COMMITTEE ON INTERIOR AND INSULAR AFFAIRS FROM FURTHER CONSIDERATION OF S. 2081, LAND AND WATER RESOURCE CONSERVATION ACT OF 1976 AND RE-REFERRAL TO COMMITTEE ON AGRICULTURE

Mr. HALEY. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from the further consideration of the Senate bill (S. 2081) to provide for furthering the conservation, protection, and enhancement of the Nation's land, water, and related resources for sustained use, and for other purposes, and that the bill be re-referred to the Committee on Agriculture.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

ORPHANS OF THE EXODUS

(Mr. DRINAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DRINAN. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything in their power to reunite families separated by political boundaries.

Because the Soviet Union is not living up to that promise, Members of Congress are conducting a vigil on behalf of these political orphans—the people who remain separated from their families.

A case history of these families entitled "Orphans of the Exodus" dramatically illustrates this tragic problem. At this time I would like to bring to my colleagues' attention the plight of the Malaev family.

Uriel Gabrielovich Malaev of Frunze, U.S.S.R., his wife, and their three small children have been attempting since 1972 to join their parents in their spiritual homeland, Israel. Repeated requests for exit visas have been refused by Soviet authorities without any explanation.

This callous Soviet disregard for basic human rights and the terms of the Helsinki agreement is intolerable. We in the Congress must do all we can to exert pressure on the Soviet Government so that one day the Malaevs, and all the other orphans of the exodus, can be reunited with their families.

CARE CALLED FOR IN SWINE FLU VACCINE TESTING PROGRAM

(Mr. MITCHELL of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MITCHELL of Maryland. Mr. Speaker and my colleagues, I take this brief minute to express some concerns that I have about the testing program for the swine flu vaccine. I would hope that the Department of Health, Education, and Welfare and other agencies associated with this testing program would take a look-see at how the volunteer program is working in urban areas. If, indeed, we saturate through the public health clinics in cities to get the volunteers for the testing program, it means that they are going to end up with the impoverished and blacks in cities as volunteers.

I do not think any Member of this House wants to experience that, so I would urge HEW and the appropriate committees of the House to take a look-see at the overall program for recruiting volunteers for the swine flu test vaccine.

I think it becomes all the more important that we do this when we look at the report last week which stated that Parke-Davis Co. mistakenly manufactured approximately 2 million dosages of swine flu vaccine. There is no danger to children, but the fact that this did take place, it seems to me, suggests that we need to look more carefully at how the volunteer program is being executed in our cities.

RECORD OF 25 YEARS OF PERFECT VOTING ATTENDANCE ON LEGISLATION

(Mr. BENNETT asked and was given permission to address the House for 1

minute, to revise and extend his remarks and include extraneous matter.)

Mr. BENNETT. Mr. Speaker, June 5, 1976, this past weekend, was an important date to me because it marked the completion of a 25-year record of not missing any legislative vote in Congress. This record, I am told, has never been duplicated in the history of Congress.

Until February 6 of 1974 my record included nonlegislative votes; but on that date I missed a vote to adjourn the House for the evening. Others in Congress having excellent records of not missing any votes at all since they entered Congress; and I pay great credit to them. However, since I have made a point of trying not to miss any votes, I know my friends join me in celebration of the fact that as of June 5 I have established a new record in Congress of not missing for 25 years any legislative vote in Congress. I am deeply indebted to an understanding wife and family; and to continued excellent health.

SOVIET UNION NOT LIVING UP TO HELSINKI FINAL ACT

(Mr. FISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FISH. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by national boundaries.

Because the Soviet Union is not living up to that promise, Members of Congress are conducting a vigil on behalf of the families which remain separated.

A case history of these families entitled "Orphans of the Exdous" dramatically details this tragic problem. At this time I would like to bring to the Members' attention the situation of the Khaimchayev family.

Issak Khaimchayev is a scientist who first applied for an exit visa from the Soviet Union in 1973. Issak was fired from his job in a research institute immediately after applying for his exit visa. Now he is forced to support his family by doing menial labor.

The sad part of this case is that Issak's father, Shmuel Khaimchayev, who lives in Israel is suffering from a heart condition. On August 1975, he was hospitalized with a myocardial infection. A medical certificate from the Ichilov Hospital, Tel-Aviv, internal medicine department stated:

> This general condition is deteriorating and we advise that his son be allowed to visit as soon as possible.

Shmuel Khaimchayev has written many times to Soviet officials pleading with them to show just a small sign of compassion. He stated in one letter:

> I beg you, hear my plea, the cry of my soul. I am weak and old and I wish to spend at least the last days of my life with my son. My life is slowly being extinguished. I suffer too much.

I rise to demonstrate my support and that of my colleagues to the cause of Soviet Jewry, not only to end the suffering of Shmuel Khaimchayev, but also of his son, and the thousands of other Soviet Jews who wish to be reunited with their loved ones.

PROVIDING FOR APPOINTMENT OF JAMES E. WEBB AS A CITIZEN REGENT OF BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate joint resolution (S.J. Res. 168) to provide for the reappointment of James E. Webb as a citizen regent of the Board of Regents of the Smithsonian Institution, a Senate joint resolution similar to the House joint resolution (H.J. Res. 863) which earlier passed the House on the Consent Calendar, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 168

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur by the expiration of the term of James E. Webb, of Washington, District of Columbia, on May 18, 1976, be filled by the reappointment of the present incumbent for the statutory term of six years.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House joint resolution (H.J. Res. 863) was laid on the table.

RELATING TO PUBLICATION OF ECONOMIC AND SOCIAL STATISTICS FOR AMERICANS OF SPANISH ORIGIN OR DESCENT

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the joint resolution (H.J. Res. 92) relating to the publication of economic and social statistics for Americans of Spanish origin or descent, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendment, as follows:

> Page 2, strike out the first five unnumbered lines and insert:
>
> "Whereas improved evaluation of the economic and social status of Americans of Spanish origin or descent will assist State and Federal Governments and private organizations in the accurate determination of the urgent and special needs of Americans of Spanish origin or descent; and"

The SPEAKER. Is there objection to the request of the gentlewoman from Colorado?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentlewoman explain whether it is the bill that passed the House, and the only change is the Senate language in the first paragraph?

Mrs. SCHROEDER. That is correct.

Mr. ROUSSELOT. Further reserving the right to object, there are no other changes?

Mrs. SCHROEDER. There are no other changes.

Mr. ROUSSELOT. And this bill passed very substantially in the House?

Mrs. SCHROEDER. I think it was a landslide.

Mr. Speaker, the Senate amendment clarifies the wording of the fourth "whereas" clause of the resolution.

It will correct any possible impression that no information on the social and economic characteristics of the population of Spanish origin is currently maintained on a nationwide basis.

The amendment merely changes certain words of the "whereas" clause but, at the same time, retains the full force of the original language by emphasizing need to improve the extent and quality of economic and social data pertaining to Americans of Spanish origin or descent.

Mr. Speaker, this is a most important piece of legislation and I am gratified that the Senate has seen fit to pass House Joint Resolution 92 in essentially the same form as it passed the House last year. Its primary purpose is to develop methods to improve and expand the social and economic statistics concerning Americans of Spanish origin or descent, thereby helping to correct problems which result in inequitable allocation of governmental funds and political representation. Most specifically, the bill will be a great help in reducing census undercounts for Spanish-origin Americans by requiring the use of Spanish language questionnaires and the increased hiring of bilingual enumerators.

The basic need for this legislation was illustrated by the inadequacy of the 1970 decennial census in regard to the accurate counting of Americans of Spanish origin or descent. Indeed, it has been estimated that areas with high concentrations of Spanish origin Americans, such as cities like Denver, Colorado, which I represent, would increase their "official population" by some 2 to 3 percent if all our Spanish-origin citizens were accurately counted.

Failure to fully count these Americans literally costs cities like Denver millions of dollars in Government aid over the course of a decade.

Spanish origin Americans have enough trouble in this country—it is time that we at least started counting them accurately and I believe that enactment into law of this bill will be a great help toward this goal.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

NATIONAL HEALTH PROMOTION AND DISEASE PREVENTION ACT OF 1976

Mr. ROGERS. Mr. Speaker, I ask unanimous consent to take from the

Speaker's desk the Senate bill (S. 1466) to amend the Public Health Service Act to extend and revise the program of assistance for the control and prevention of communicable diseases, and to provide for the establishment of the Office of Consumer Health Education and Promotion and the Center for Health Education and Promotion to advance the national health, to reduce preventable illness, disability, and death; to moderate self-imposed risks; to promote progress and scholarship in consumer health education and promotion and school health education; and for other purposes, with a Senate amendment to the House amendments thereto, and concur in the Senate amendment to the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendments, as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment to the text of the bill, insert:

TITLE I—HEALTH INFORMATION AND HEALTH PROMOTION

SHORT TITLE

SEC. 101. This title may be cited as the "National Consumer Health Information and Health Promotion Act of 1976".

AMENDMENT TO PUBLIC HEALTH SERVICE ACT

SEC. 102. The Public Health Service Act is amended by adding at the end thereof the following new title:

"TITLE XVII—HEALTH INFORMATION AND HEALTH PROMOTION

"GENERAL AUTHORITY

"SEC. 1701. (a) The Secretary shall—

"(1) formulate national goals, and a strategy to achieve such goals, with respect to health information and health promotion, preventive health services, and education in the appropriate use of health care;

"(2) analyze the necessary and available resources for implementing the goals and strategy formulated pursuant to paragraph (1), and recommend appropriate educational and quality assurance policies for the needed manpower resources identified by such analysis;

"(3) undertake and support necessary activities and programs to—

"(A) incorporate appropriate health education components into our society, especially into all aspects of education and health care,

"(B) increase that application and use of health knowledge, skills, and practices by the general population in its patterns of daily living, and

"(C) establish systematic processes for the exploration, development, demonstration, and evaluation of innovative health promotion concepts;

"(4) undertake and support research and demonstrations respecting health information and health promotion, preventive health services, and education in the appropriate use of health care;

"(5) undertake and support appropriate training in, and undertake and support appropriate training in the operation of programs concerned with, health information and health promotion, preventive health services, and education in the appropriate use of health care;

"(6) undertake and support, through improved planning and implementation of tested models and evaluation of results, effective and efficient programs respecting health information and health promotion, preventive health services, and education in the appropriate use of health care;

"(7) foster the exchange of information respecting, and foster cooperation in the conduct of, research, demonstration, and training programs respecting health information and health promotion, preventive health services, and education in the appropriate use of health care;

"(8) provide technical assistance in the programs referred to in paragraph (7); and

"(9) use such other authorities for programs respecting health information and health promotion, preventive health services, and education in the appropriate use of health care as are available and coordinate such use with programs conducted under this title.

The Secretary shall administer this title in a manner consistent with the national health priorities set forth in section 1502 and with health planning and resource development activities undertaken under titles XV and XVI.

"(b) For payments under grants and contracts under this title there are authorized to be appropriated $7,000,000 for the fiscal year ending September 30, 1977, $10,000,000 for the fiscal year ending September 30, 1978, and $14,000,000 for the fiscal year ending September 30, 1979.

"(c) No grant may be made or contract entered into under this title unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and contain such information as the Secretary may prescribe. Contracts may be entered into under this title without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"RESEARCH PROGRAMS

"SEC. 1702. (a) The Secretary is authorized to conduct and support by grant or contract (and encourage others to support) research in health information and health promotion, preventive health services, and education in the appropriate use of health care. Applications for grants and contracts under this section shall be subject to appropriate peer review. The Secretary shall also—

"(1) provide consultation and technical assistance to persons who need help in preparing research proposals or in actually conducting research;

"(2) determine the best methods of disseminating information concerning personal health behavior, preventive health services and the appropriate use of health care and of affecting behavior so that such information is applied to maintain and improve health, and prevent disease, reduce its risk, or modify its course of severity;

"(3) determine and study environmental, occupational, social, and behavioral factors which affect and determine health and ascertain those programs and areas for which educational and preventive measures could be implemented to improve health as it is affected by such factors;

"(4) develop (A) methods by which the cost and effectiveness of activities respecting health information and health promotion, preventive health services, and education in the appropriate use of health care, can be measured, including methods for evaluating the effectiveness of various settings for such activities and the various types of persons engaged in such activities, (B) methods for reimbursement or payment for such activities, and (C) models and standards for the conduct of such activities, including models and standards for the education, by providers of institutional health services, of individuals receiving such services respecting the nature of the institutional health services provided the individuals and the symptoms, signs, or diagnoses which led to provision of such services;

"(5) develop a method for assessing the costs and effectiveness of specific medical services and procedures under various conditions of use, including the assessment of the sensitivity and specificity of screening and diagnostic procedures; and

"(6) enumerate and assess, using methods developed under paragraph (5), preventive health measures and services with respect to their cost and effectiveness under various conditions of use.

"(b) the Secretary shall make a periodic survey of the needs, interest, attitudes, knowledge, and behavior of the American public regarding health and health care. The Secretary shall take into consideration the findings of such surveys and the findings of similar surveys conducted by national and community health educational organizations, and other organizations and agencies for formulating policy respecting health information and health promotion, preventive health services, and education in the appropriate use of health care.

"COMMUNITY PROGRAMS

"SEC. 1703. (a) The Secretary is authorized to conduct and support by grant or contract (and encourage others to support) new and innovative programs in health information and health promotion, preventive health services, and education in the appropriate use of health care, and may specifically—

"(1) support demonstration and training programs in such matters which programs (A) are in hospitals, ambulatory care settings, home care settings, schools, day care programs for children, and other appropriate settings representative of broad cross sections of the population, and include public education activities of voluntary health agencies, professional medical societies, and other private nonprofit health organizations, (B) focus on objectives that are measurable, and (C) emphasize the prevention or moderation of illness or accidents that appear controllable through individual knowledge and behavior.

"(2) provides consultation and technical assistance to organizations that request help in planning, operating, or evaluating programs in such matters;

"(3) develop health information and health promotion materials and teaching programs including (A) model curriculums for the training of educational and health professionals and paraprofessionals in health education by medical, dental, and nursing schools, schools of public health, and other institutions engaged in training of educational or health professionals, (B) model curriculums to be used in elementary and secondary schools and institutions of higher learning, (C) materials and programs for the continuing education of health professionals and paraprofessionals in the health education of their patients, (D) materials for public service use by the printed and broadcast media, and (E) materials and programs to assist providers of health care in providing health education to their patients; and

"(4) support demonstration and evaluation programs for individual and group self-help programs designed to assist the participant in using his individual capacities to deal with health problems, including programs concerned with obesity, hypertension, and diabetes.

"(b) The Secretary is authorized to make grants to States and other public and nonprofit private entities to assist them in meeting the costs of demonstrating and evaluating programs which provide information respecting the costs and quality of health care or information respecting health insurance policies and prepaid health plans, or information respecting both. After the development of models pursuant to sections 1704(4) and 1704(5) for such information, no grant may be made under this subsection for a program unless the information to be provided under the program is provided in accordance with one of such models applicable to the information.

"(c) The Secretary is authorized to sup-

port by grant or contract (and to encourage others to support) private nonprofit entities working in health information and health promotion, preventive health services, and education in the appropriate use of health care. This amount of any grant or contract for a fiscal year beginning after September 30, 1978, for an entity may not exceed 25 per centum of the expenses of the entity for such fiscal year for health information and health promotion, preventive health services, and education in the appropriate use of health care.

"INFORMATION PROGRAMS

"SEC. 1704. The Secretary is authorized to conduct and support by grant or contract (and encourage others to support) such activities as may be required to make information respecting health information and health promotion, preventive health services, and education in the appropriate use of health care available to the consumers of medical care, providers of such care, schools, and others who are or should be informed respecting such matters. Such acivities may include at least the following:

"(1) The publication of information, pamphlets, and other reports which are specifically suited to interest and instruct the health consumer, when information, pamphlets, and other reports shall be updated annually, shall pertain to the individual's ability to improve and safeguard his own health, shall include material, accompanied by suitable illustrations, on child care, family life and human development, disease prevention, particularly prevention of pulmonary disease, cardiovascular disease, and cancer, physical fitness, dental health, environmental health, nutrition, safety and accident prevention, drug abuse and alcoholism, mental health, management of chronic diseases (including diabetes and arthritis), and venereal diseases; and shall be designed to reach populations of different languages and of different social and economic backgrounds.

"(2) Security the cooperation of the communications media, providers of health care, schools, and others in activities designed to promote and encourage the use of health maintaining information and behavior.

"(3) The study of health information and promotion in advertising and the making to concerned Federal agencies and others such recommendations respecting such advertising as are appropriate.

"(4) The development of models and standards for the publication by States, insurance carriers, prepaid health plans, and others (except individual health practitioners) of information for use by the public respecting the cost and quality of health care, including information to enable the public to make comparisons of the cost and quality of health care.

"(5) The development of models and standards for the publication by States, insurance carriers, prepaid health plans, and others of information for use by the public respecting health insurance policies and prepaid health plans, including information on the benefits provided by the various types of such policies and plans, the premium charges for such policies and plans, exclusions from coverage or eligibility for coverage, cost sharing requirements, and the ratio of the amounts paid as benefits to the amounts received as premiums and information to enable the public to make relevant comparisons of the costs and benefits of such policies and plans.

"(6) Assess, with respect to the effectiveness, safety, cost, and required training for and condition of use, of new aspects of health care, and new activities, programs, and services designed to improve human health and publish in readily understandable language for public and professional use such assessments and, in the case of controversial aspects of health care, activities, programs, or services, publish differing views or opinions respecting the effectiveness, safety, cost, and required training for and conditions of use, of such aspects of health care, activities, programs, or services.

"REPORT AND STUDY

"SEC. 1705. (a) The Secretary shall, not later than two years after the date of the enactment of this title and annually thereafter, submit to the President for transmittal to Congress a report on the status of health information and health promotion, preventive health services, and education in the appropriate use of health care. Each such report shall include—

"(1) a statement of the activities carried out under this title since the last report and the extent to which each such activity achieves the purposes of this title;

"(2) an assessment of the manpower resources needed to carry out programs relating to health information and health promotion, preventive health services, and education in the appropriate use of health care, and a statement describing the activities currently being carried out under this title designed to prepare teachers and other manpower for such programs.

"(3) the goals and strategy formulated pursuant to section 1701(a)(1), the models and standards developed under this title, and the results of the study required by subsection (b) of this section; and

"(4) such recommendations as the Secretary considers appropriate for legislation respecting health information and health promotion, preventive health services, and education in the appropriate use of health care, including recommendations for revisions to and extension of this title.

"(b) The Secretary shall conduct a study of health education services and preventive health services to determine the coverage of such services under public and private health insurance programs, including the extent and nature of such coverage and the cost sharing requirements required by such programs for coverage of such services.

"OFFICE OF HEALTH INFORMATION AND HEALTH PROMOTION

"SEC. 1706. The Secretary shall establish within the Office of the Assistant Secretary for Health, an Office of Health Information and Health Promotion which shall—

(1) coordinate all activities within the Department which relate to health information and health promotion, preventive health services, and education in the appropriate use of health care;

(2) coordinate its activities with similar activities of organizations in the private sector; and

(3) establish a national information clearinghouse to facilitate the exchange of information concerning matters relating to health information and health promotion, preventive health services, and education in the appropriate use of health care, to facilitate access to such information, and to assist in the analysis of issues and problems relating to such matter.".

TITLE II—DISEASE CONTROL

SHORT TITLE

SEC. 201. This title may be cited as the "Disease Control Amendments of 1976".

AMENDMENTS TO SECTIONS 311 AND 317

SEC. 202. (a) Effective with respect to grants under section 317 of the Public Health Service Act made from appropriations under such section for fiscal years beginning after June 30, 1975, section 317 of such Act is amended to read as follows:

"DISEASE CONTROL PROGRAMS

"SEC. 317. (a) The Secretary may make grants to States and, in consultation with State health authorities, to public entities to assist them in meeting the costs of disease control programs.

"(b)(1) No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information as the Secretary shall by regulation prescribe and shall meet the requirements of paragraph (2).

"(2) An application for a grant under subsection (a) shall—

"(A) set forth with particularity the objectives (and their priorities, as determined in accordance with such regulations as the Secretary may prescribe) of the applicant for each of the disease control programs it proposes to conduct with assistance from a grant under subsection (a);

"(B) contain assurances satisfactory to the Secretary that, in the year during which the grant applied for would be available, the applicant will conduct such programs as may be necessary (i) to develop an awareness in those persons in the area served by the applicant who are most susceptible to the diseases or conditions referred to in subsection (f) of appropriate preventive behavior and measures (including immunizations) and diagnostic procedures for such diseases, and (ii) to facilitate their access to such measures and procedures; and

"(C) provide for the reporting to the Secretary of such information as he may require concerning (i) the problems, in the area served by the applicant, which relate to any disease or condition referred to in subsection (f), and (ii) the disease control programs of the applicant for which a grant is applied for.

In considering such an application the Secretary shall take into account the relative extent, in the area served by the applicant, of the problems which relate to one or more of the diseases or conditions referred to in subsection (f) and the extent to which the applicant's programs are designed to eliminate or reduce such problems. The Secretary shall give special consideration to applications for programs which (A) will increase to at least 80 per centum the immunization rates of any population identified as not having received, or as having failed to secure, the generally recognized disease immunizations, and (B) to the fullest extent practicable, will cooperate and use public and nonprofit private entities and volunteers. The Secretary shall give priority to applications submitted for disease control programs for communicable diseases.

"(c)(1) Each grant under subsection (a) shall be made for disease control program costs in the one-year period beginning on the first day of the first month beginning after the month in which the grant is made.

"(2) Payments under grants under subsection (a) may be made in advance on the basis of estimates or by way of reimbursements, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of this section.

"(3) The Secretary, at the request of a recipient of a grant under subsection (a), may reduce the amount of such grant by—

"(A) the fair market value of any supplies (including vaccines and other prevention agents) or equipment furnished the grant recipient, and

"(B) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the recipient and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such recipient and for the purpose of carrying out a program with respect to which the recipient's grant under subsection (a) is made. The amount by

which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the recipient.

"(d)(1) The Secretary may conduct, and may make grants to and enter in contracts with public and nonprofit private entities for the conduct of—

"(A) training for the administration and operation of disease prevention and control programs, and

"(B) demonstrations and evaluations of such programs.

"(2) No grant may be made or contract entered into under paragraph (1) unless an application therefor is submitted to and approved by the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(e) The Secretary shall coordinate activities under this section respecting disease control programs with activities under other sections of this Act respecting such programs.

"(f) For purposes of this section, the term 'disease control program' means a program which is designed and conducted so as to contribute to national protection against diseases or conditions of national significance which are amenable to reductions, including tuberculosis, rubella, measles, poliomyelitis, diphtheria, tetanus, pertussis, mumps, and other communicable diseases (other than venereal diseases), and arthritis, diabetes, diseases borne by rodents, hypertension, pulmonary diseases, cardiovascular diseases, and Rh disease. Such term also includes vaccination programs, laboratory services, studies to determine the disease control needs of the States and the means of best meeting such needs, the provision of information and education services respecting disease control, and programs to encourage behavior which will prevent disease and encourage the use of preventive measures and diagnostic procedures. Such term also includes any program or project for rodent control for which a grant was made under section 314(e) for the fiscal year ending June 30, 1975.

"(g)(1)(A) For the purpose of grants under subsection (a) for disease control programs to immunize children against immunizable diseases (including measles, rubella, poliomyelitis, diphtheria, pertussis, tetanus, and mumps), there are authorized to be appropriated $9,000,000 for fiscal year 1976, $17,500,000 for fiscal year 1977, and $23,000,000 for fiscal year 1978.

"(B) For the purpose of grants under subsection (a) for disease control programs for diseases borne by rodents there are authorized to be appropriated $13,500,000 for fiscal year 1976, $14,000,000 for fiscal year 1977, and $14,500,000 for fiscal year 1978.

"(C) For the purpose of grants under subsection (a) for disease control programs, other than programs for which appropriations are authorized under subparagraph (A) or (B), and for the purpose of grants and contracts under subsection (d), there are authorized to be appropriated $4,000,000 for fiscal year 1976, $4,500,000 for fiscal year 1977, and $5,000,000 for fiscal year 1978.

"(D) Not to exceed 15 per centum of the amount appropriated for any fiscal year under any of the preceding subparagraphs of this paragraph may be used by the Secretary for grants and contracts for such fiscal year for programs for which appropriations are authorized under any one or more of the other subparagraphs of this paragraph if the Secretary determines that such use will better carry out the purpose of this section, and reports to the appropriate committees of Congress at least thirty days before making such use of such amount his determination and the reasons therefor.

"(2) Except as provided in section 318, no funds appropriated under any provision of this Act other than paragraph (1) of this subsection may be used to make grants in any fiscal year for disease control programs if (A) grants for such programs are authorized by subsection (a), and (B) all the funds authorized to be appropriated under this subsection for that fiscal year have not been appropriated for that fiscal year and obligated in that fiscal year.

"(h) The Secretary shall submit to the President for submission to the Congress on January 1 of each year (1) a report (A) on the effectiveness of all Federal and other public and private activities in controlling the diseases and conditions referred to in subsection (f), (B) on the extent of the problems presented by such diseases, (C) on the effectiveness of the activities, assisted under grants and contracts under this section, in controlling such diseases, and (D) setting forth a plan for the coming year for the control of such diseases; and (2) a report (A) on the immune status of the population of the United States, and (B) identify, by area, population group, and other categories, deficiencies in the immune status of such population.

"(i)(1) Nothing in this section shall limit or otherwise restrict the use of funds which are granted to a State or to an agency or a political subdivision of a State under provisions of Federal law (other than this Act) and which are available for the conduct of disease control programs from being used in connection with programs assisted through grants under subsection (a).

"(2) Nothing in this section shall be construed to require any State or any agency or political subdivision of a State to have a disease control program which would require any person, who objects to any treatment provided under such a program, to be treated or to have any child or ward treated under such a program.".

(b) Section 311(c) of the Public Health Service Act is amended to read as follows:

"(c)(1) The Secretary is authorized to develop (and may take such action as may be necessary to implement) a plan under which personnel, equipment, medical supplies, and other resources of the Service and other agencies under the jurisdiction of the Secretary may be effectively used to control epidemics of any disease or condition referred to in section 317(f) and to meet other health emergencies or problems involving or resulting from disasters or any such disease. The Secretary may enter into agreements providing for the cooperative planning between the Service and public and private community health programs and agencies to cope with health problems (including epidemics and health emergencies) resulting from disasters or any disease or condition referred to in section 317(f).

"(2) The Secretary may, at the request of the appropriate State or local authority, extend temporary (not in excess of forty-five days) assistance to States or localities in meeting health emergencies of such a nature as to warrant Federal assistance. The Secretary may require such reimbursement of the United States for assistance provided under this paragraph as he may determine to be reasonable under the circumstances. Any reimbursement so paid shall be credited to the applicable appropriation for the Service for the year in which such reimbursement is received.".

(c) Section 311(b) of such Act is amended by inserting at the end thereof the following new sentence: "The Secretary may charge only private entities reasonable fees for the training of their personnel under the preceding sentence.".

AMENDMENTS RESPECTING VENEREAL DISEASES

SEC. 203. (a) The Congress finds and declares that—

(1) the number of reported cases of venereal disease continues in epidemic proportions in the United States;

(2) the number of patients with venereal disease reported to public health authorities is only a fraction of those actually infected;

(3) the incidence of venereal disease is particularly high in the 15–29-year age group, and in metropolitan areas;

(4) venereal disease accounts for needless deaths and leads to such severe disabilities as sterility, insanity, blindness, and crippling conditions;

(5) the number of cases of congential syphilis, a preventable disease, tends to parallel the incidence of syphilis in adults;

(6) it is conservatively estimated that the public cost of care for persons suffering the complications of venereal disease exceed $80,000,000 annually;

(7) medical researchers have no successful vaccine for syphilis or gonorrhea, and have no blood test for the detection of gonorrhea among the large reservoir of asymptomatic females;

(8) school health education programs, public information and awareness campaigns, mass diagnostic screening and case followup activities have all been found to be effective disease intervention methodologies;

(9) knowledgeable health providers and concerned individuals and groups are fundamental to venereal disease prevention and control;

(10) biomedical research leading to the development of vaccines for syphilis and gonorrhea is of singular importance for the eventual eradication of these dreaded diseases; and

(11) a variety of other sexually transmitted diseases, in addition to syphilis and gonorrhea, have become of public health significance.

(b)(1) Section 318(b)(2) of the Public Health Service Act is amended to read as follows:

"(2) For the purpose of carrying out this subsection, there are authorized to be appropriated $5,000,000 for fiscal year 1976, $6,600,000 for fiscal year 1977, and $7,600,000 for fiscal year 1978.

(2) Subsection (d)(2) of such section is amended to read as follows:

"(2) For the purpose of carrying out this section, there is authorized to be appropriated $32,000,000 for fiscal year 1976, $41,500,000 for fiscal year 1977, and $43,500,000 for fiscal year 1978.".

(c) Subsection (a) of such section is amended by striking out "public authorities and" inserting in lieu thereof "public and nonprofit private entities and to".

(d) Subsection (d)(1)(B) of such section is amended by inserting before the semicolon at the end the following: "and routine testing, including laboratory tests and followup systems".

(e) Subsection (d)(1)(E) of such section is amended by striking out "control" and inserting in lieu thereof "prevention and control strategies and activities".

(f)(1) Subsection (c) is repealed.

(2) Subsection (c)(1) of such section is amended by striking out "or (d)" and inserting in lieu thereof "or (c)".

(3) Subsection (e)(2)(C) of such section is amended by striking out "(including darkfield microscope techniques for the diagnosis of both gonorrhea and syphilis)".

(4) The last sentence of subsection (e)(4) of such section is amended by striking out the semicolon and all that follows through "paid to such recipient".

(5) The first sentence of subsection (e)(5) of such section is amended by inserting before the period the following: "or as may

be required by a law of a State or political subdivision of a State".

(6) Subsection (g) of such section is amended by striking out ", (c), and (d)" and inserting in lieu thereof "and (c)".

(7) Subsection (h) of such section is amended by striking out "treated or to have any child or ward of his".

(8) Subsections (d), (e), (f), (g), and (h) of such section are redesignated as subsections (c), (d), (e), (f), and (g), respectively.

(g) Subsection (e) of such section (as so redesignated) is amended by striking out "317(d)(4)" and inserting in lieu thereof "317(g)(2)".

(h) Such section is amended by adding at the end thereof the following new subsection:

"(h) For purposes of this section and section 317, the term 'venereal disease' means gonorrhea, syphilis, or any other disease which can be sexually transmitted and which the Secretary determines is or may be amenable to control with assistance provided under this section and is of national significance.".

(i) Section 318(b)(1) is amended by inserting "education," before "and training".

EXTENSION AND REVISION OF LEAD-BASED PAINT POISONING PREVENTION ACT

SEC. 204. (a)(1) Section 101(c) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801(c)) is amended by inserting after and below paragraph (4) the following:

"Follow-up programs described in paragraph (3) shall include programs to eliminate lead-based paint hazards from surfaces in and around residential dwelling units or houses, including programs to provide for such purpose financial assistance to the owners of such units or houses who are financially unable to eliminate such hazards from their units or houses. In administering programs for the elimination of such hazards, priority shall be given to the elimination of such hazards in residential dwelling units or houses in which reside children with diagnosed lead-based paint poisoning.".

(2)(A) Section 101(c) of such Act is amended by striking out "should include" and inserting in lieu thereof "shall include".

(B) Section 101(f) of such Act is amended by (i) striking out "and (B)" and inserting in lieu thereof "(B)", and (ii) by inserting before the period at the end the following ", and (C) the services to be provided will be provided under local programs which meet the requirements of subsections (c) and (d) of this section".

(b) Section 401 of such Act (42 U.S.C. 4831) is amended to read as follows:

"PROHIBITION AGAINST USE OF LEAD-BASED PAINT IN CONSTRUCTION OF FACILITIES AND THE MANUFACTURE OF CERTAIN TOYS AND UTENSILS

"SEC. 401. (a) The Secretary of Health, Education, and Welfare shall take such steps and impose such conditions as may be necessary or appropriate to prohibit the application of lead-based paint to any cooking utensil, drinking utensil, or eating utensil manufactured and distributed after the date of enactment of this Act.

"(b) The Secretary of Housing and Urban Development shall take such steps and impose such conditions as may be necessary or appropriate to prohibit the use of lead-based paint in residential structures constructed or rehabilitated by the Federal Government, or with Federal assistance in any form after the date of enactment of this Act.

"(c) The Consumer Product Safety Commission shall take such steps and impose such conditions as may be necessary or appropriate to prohibit the application of lead-based paint to any toy or furniture article.".

(c)(1) Section 501(3) of such Act (42 U.S.C. 4841(3)) is amended to read as follows:

"(3)(A) Except as provided in subparagraph (B), the term 'lead-based paint' means any paint containing more than five-tenths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of the paint, or the equivalent measure of lead in the dried film of paint already applied, or both.

"(B)(i) The Consumer Product Safety Commission shall, during the six-month period beginning on the date of the enactment of the National Health Promotion and Disease Prevention Act of 1976, determine, on the basis of available data and information and after providing opportunity for an oral hearing and considering recommendations of the Secretary of Health, Education, and Welfare (including those of the Center for Disease Control) and of the National Academy of Sciences, whether or not a level of lead in paint which is greater than six one-hundredths of 1 per centum but not in excess of five-tenths of 1 per centum is safe. If the Commission determines, in accordance with the preceding sentence, that another level of lead is safe, the term 'lead-based paint' means, with respect to paint which is manufactured after the expiration of the six-month period beginning on the date of the Commission's determination, paint containing by weight (calculated as lead metal) in the total nonvolatile content of the paint more than the level of lead determined by the Commission to be safe or the equivalent measure of lead in the dried film of paint already applied, or both.

"(ii) Unless the definition of the term 'lead-based paint' has been established by a determination of the Consumer Product Safety Commission pursuant to clause (i) of this subparagraph, the term 'lead-based paint' means, with respect to paint which is manufactured after the expiration of the twelve-month period beginning on such date of enactment, paint containing more than six one-hundredths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of the paint, or the equivalent measure of lead in the dried film of paint already applied, or both.".

(2) Section 501 of such Act is amended (1) by striking out "the term" in paragraphs (1) and (2) and inserting in lieu thereof "The term", (2) by striking out the semicolon at the end of paragraph (1) and inserting in lieu thereof a period, and (3) by striking out "; and" at the end of paragraph (2) and inserting in lieu thereof a period.

(d) Section 502 of such Act (42 U.S.C. 4842) is amended by striking out "In carrying out the authority under this Act, the Secretary of Health, Education, and Welfare shall" and inserting in lieu thereof "In carrying out their respective authorities under this Act, the Secretary of Housing and Urban Development and the Secretary of Health, Education, and Welfare shall each".

(e)(1) Section 503 of such Act (42 U.S.C. 4843) is amended by striking out subsections (a), (b), and (c) and inserting in lieu thereof the following:

"(a) There are authorized to be appropriated to carry out this Act $10,000,000 for the fiscal year 1976, $12,000,000 for the fiscal year 1977, and $14,000,000 for the fiscal year 1978."

(2) Subsection (d) of such section is redesignated as subsection (b).

TITLE III—MISCELLANEOUS AMENDMENT

SEC. 31. (a) Section 2(f) of the Public Health Service Act is amended to read as follows:

"(f) Except as provided in sections 314(g)(4)(B), 355(5), 361(d), 1002(c), 1201(2), 1401(13), 1531(1), and 1633(1), the term 'State' includes, in addition to the several States, only the District of Columbia, Guam, the Commonwealth of Puerto Rico, and the Virgin Islands.".

(b)(1) Section 361(d) is amended by adding at the end thereof the following: "For purposes of this subsection, the term 'State' includes, in addition to the several States, only the District of Columbia.".

(2) Section 1401 is amended by adding after paragraph (12) the following new paragraph:

"(13) The term 'State' includes, in addition to the several States, only the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, is this the bill that set up the new independent unit at HEW, to provide planning, health information and general promotion?

Mr. ROGERS. No. This is a revised version of that legislation.

Mr. Speaker, the legislation before us now represents a compromise between the Senate and House versions of similar legislation dealing with programs of health information and promotion and disease prevention and control.

This legislation originally passed the Senate on July 30, 1975, and the House on April 7, 1976. Until after House passage the administration was vigorously opposed to the legislation, particularly the health information and promotion portions of it. However, after House passage of the bill, on our initiative negotiations were begun with the administration and our Senate colleagues which, with a considerable good-faith effort on all parts, have resulted in the compromise which is now before us. This compromise removes or rewrites many of the provisions which were unacceptable to the administration and it is our understanding and hope that it will now be acceptable to the President. We are seeking to concur in the Senate amendment to the House amendment because some of the changes which we have made, particularly the deletions and reductions in authorizations which I will describe, would be outside the scope of a conference and because concurring in the Senate amendment will avoid a conference which is now unnecessary.

The compromise before us is an excellent one. Consider first the authorizations of appropriations. The Senate bill authorized a total of $491.5 million. The House amendment contained an authorization of appropriation of $314.8 million. The compromise before us is lower than either figure, $302.8 million. This has been achieved primarily by complete omission of provisions in the Senate bill requiring water treatment and dental health programs and by reduction in the authorizations for the health information and promotion programs which the administration found so objectionable. I am including a complete table of au-

thorizations of appropriations in the RECORD which details all of the figures. I would add that the total for disease control programs is similar to that in the Senate bill, the total for lead poisoning programs is similar to that in the House bill and the total for venereal disease programs splits the difference between the two bills.

The differences between the two bills with respect to disease control programs, venereal disease programs, and lead poisoning programs were all minor in both number and nature. In all respects we have followed the House approach, except for some minor Senate amendments in the venereal disease program and the addition of increased authorizations of appropriations for childhood immunizations against measles, rubella, polio, diphtheria and other childhood diseases. I am pleased about this increased program for childhood immunizations which was largely the responsibility of Senator DALE BUMPERS. In a year in which we are attempting the immunize the entire U.S. population against swine flu it seems only reasonable that we mount a similar, although less expensive effort, to immunize all children against all of the diseases for which we can offer protection. The amounts which we have agreed to, a total of $50 million over the 3 years, 1976 through 1978, should be sufficient to achieve this objective and represent an important new commitment to preventive medicine in this country.

With respect to health information and promotion, we have followed the text of the House bill and either removed or rewritten provisions which were objectionable to the administration. Thus, we have reduced the authorizations from a total of $70 million to a total of $31 million, made it clear that this legislation does not preclude use of other legislative authorities for similar programs, eliminated the requirement that the Secretary review existing and proposed Federal programs that so many of the Members found objectionable upon first passage, eliminated several 2-year deadlines for the completion of tasks which the legislation assigns HEW—although the tasks will still be performed—eliminated the requirement for the development and publication of a formal research plan—although it is anticipated that adequate planning of the research effort will nevertheless be done—revised the requirements for review of advertising and for peer review of research, eliminated the interdepartmental committee required by the proposal, and eliminated the requirement that HEW support a nonprofit, private national health education center—although authority for such support is retained.

We have all heard on numerous occasions how our health is the product of our diet, exercise, and the conduct of our personal lives. Yet, like the weather, this is something that far too little has been done about. The compromise before us is now a modest initial effort on the part of the Federal Government to engage in research and demonstration support for community programs in health information and promotion intended to develop possible further courses of action in this area. The investment is small, the authorization for fiscal 1977 would be $7 million which seems trivial when compared to the estimated $135 billion which will be spent on medical care in that year. The possible yields are enormous. Some of our Canadian colleagues have estimated that a $6 million investment in these kinds of activities can yield as much as a $200 million savings in medical care costs and related economic losses.

Mr. Speaker, this is a good proposal for which I urge my colleagues' support.

I include the following:

COMPROMISE LEGISLATION ON HEALTH PROMOTION AND DISEASE CONTROL (S. 1466 AND H.R. 12678)

[In millions of dollars]

	House, fiscal year—				Senate, fiscal year—				Compromise, fiscal year—			
	1977	1978	1979	Total	1976	1977	1978	Total	1977	1978	1979	Total
Title I:												
Health information and promotion:												
General authority	12.0	23.0	25.0	60.0	11	11.0	24	46.0	(1)			
Private center	2.0	3.0	5.0	10.0	1	1.0	1	3.0				
Subtotal	14.0	26.0	30.0	70.0	12	12.0	25	49.0	7.0	10.0	14.0	31.0
					Fiscal year—							
	1976	1977	1978	Total	1976	1977	1978	Total	1976	1977	1978	Total
Title II:												
Disease control programs:												
Childhood immunizations	9.0	9.0	9.0	27.0	(1)				9.0	17.5	23.0	49.5
Diseases borne by rodents	13.1	13.1	13.1	39.3					13.5	14.0	14.5	42.0
Other control programs	5.0	5.0	5.0	15.0					4.0	4.5	5.0	13.5
Subtotal	27.1	27.1	27.1	81.3	30	35.0	40	105.0	26.5	36.0	42.5	105.0
Venereal disease programs:												
Research and demonstrations	7.5	7.5	7.5	22.5	5	5.0	5	15.0	5.0	6.6	7.6	19.2
Formula grants	0	0	0	0	5	10.0	15	30.0	0	0	0	0
Project grants	35.0	35.0	35.0	105.0	31	33.0	36	100.0	32.0	41.5	43.5	117.0
Subtotal	42.5	42.5	42.5	127.5	41	48.0	56	145.0	37.0	48.1	51.1	136.2
Lead poisoning programs:												
Detection and treatment	10.0	12.0	14.0	36.0	10	12.5	15	37.5	10.0	12.0	14.0	36.0
Lead elimination	0	0	0	0	5	15.0	25	45.0	0	0	0	0
Research and demonstrations	0	0	0	0	3	3.0	3	9.0	0	0	0	0
Subtotal	10.0	12.0	14.0	36.0	18	30.5	43	91.5	10.0	12.0	14.0	36.0
Water treatment programs				0	2	3.0	4	9.0				0
Dental health programs:												
Project grants					15	25.0	25	65.0				
Research and demonstrations					3	4.0	5	12.0				
National education					2	5.0	8	15.0				
Subtotal				0	20	34.0	38	92.0				0
Total	93.6	107.6	113.6	314.8	123	162.5	206	491.5	80.5	106.1	121.6	308.2

[1] Not broken down.

Mr. ROUSSELOT. Further reserving the right to object, this does not then include that new planning organization that was set up at HEW with a special independent corporation to manage it, et cetera? This is not that bill?

Mr. ROGERS. Mr. Speaker, if the gentleman will yield, it is not included in this bill.

Mr. ROUSSELOT. What, in the gentleman's opinion, are the most significant differences between this bill that we now have before us and the agreement the gentleman has gained with the Senate?

Mr. ROGERS. Mr. Speaker, I think the gentleman will be pleased to know that the Senate bill called for an expenditure of $491 million and this has been reduced to $308 million. That is a sizable reduction.

There have also been changes made so that we would omit water treatment and dental health programs in the bill.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, could the gentleman from North Carolina (Mr.

BROYHILL) or the gentleman from Kentucky (Mr. CARTER) tell me this: Does this bill contain the provision for this new unit to which we had reference? Can either of those gentleman enlighten me on that?

Mr. CARTER. No, sir, it does not. That was taken out.

Mr. ROUSSELOT. Mr. Speaker, that is what I was trying to elicit. I was hoping some Member could answer that question for me.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Speaker, as the gentleman will recall, I offered an amendment when the bill passed the House to delete title I. I was concerned at that time over the problems of duplication and the fact that it would set up new programs that were actually overlapping efforts that are already being made in the Department.

Mr. ROUSSELOT. I certainly remember that. A number of us voted against it.

Mr. BROYHILL. Mr. Speaker, what we have done in the bill, as the gentleman from Florida (Mr. ROGERS) has said, is to drop this idea of the special corporation, and the health information title which is in the bill recognizes the efforts that are already underway in the Department and does set up an office within the Assistant Secretary's Office to coordinate those efforts that are already underway. That is all it does.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, has that particular office been expanded under this bill?

Mr. BROYHILL. What they intend to do is to take the old office that I told the Members about in the former debate and to make that a part of the Assistant Secretary's Office, and to make it a coordinating office in order to coordinate all of the health office information programs in the Department.

My concern in the other bill was that they were setting up an entirely new administration which would, in fact, duplicate and overlap the efforts that were already underway. The Department had serious objections to the way that title was written. They have no objections to the way this title is written. In fact, they were greatly responsible for helping us in the drafting of the new language in this title I.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, can the gentleman from North Carolina (Mr. BROYHILL) assure us, then, that all of title I has, in fact, been removed by agreement?

Mr. BROYHILL. No. Mr. Speaker, if the gentleman will yield, I did not say all of title I had been removed. I said title I had been completely rewritten so as to give an entirely different concept and direction than the title I that was in the other bill. The title I that is in this bill gives recognition to the health information efforts already underway.

Mr. ROUSSELOT. The efforts of the existing agency?

Mr. BROYHILL. That is right, the efforts of the existing agency.

The only change, if there is a change, is for the upgrading of the Health Information Office to that of a coordinating office in the Office of the Assistant Secretary.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I yield to my colleague, the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I would like to ask a question regarding the remaining portions of title I.

As I understand it, in one of the parts of that title as originally enacted there was an authorization for HEW to conduct a comprehensive study of health policies in the United States in, I believe, a 1- or 2-year period. They were to report back with recommendations to the Congress as to what policies HEW endorsed. Some of us felt it was and is the duty of Congress to formulate these health policies and that HEW has developed a strong disposition to promote socialized medicine in the United States.

Does this study authorization remain in the bill, or has that been removed as well?

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from North Carolina.

Mr. BROYHILL. That section, which was, I believe, section 17 of the old bill, is no longer there.

Mr. ROUSSELOT. It has been totally removed?

Mr. BROYHILL. I have a copy of the bill in my hand, and that is my understanding.

Mr. ROUSSELOT. Mr. Speaker, would the gentleman care to describe any other changes that have been agreed upon?

Mr. BROYHILL. Mr. Speaker, I have given the gentleman the thrust of the changes. The only other aspect of any consequence is, of course, the requirement of a report every 2 years from the Secretary as to how they are carrying out their authorization under this law to provide health information to the consumers.

Mr. ROUSSELOT. How much money would be involved?

Mr. BROYHILL. It has been reduced considerably. As the gentleman will recall, this was another one of the objections I had to title I in the bill as passed by the House. As I recall, it was $70 million, which was considerably over the administration budget.

Mr. ROUSSELOT. What is it now?

Mr. BROYHILL. $7 million for the next fiscal year.

Mr. ROUSSELOT. It went from $70 million to $7 million?

Mr. BROYHILL. To $7 million for the next fiscal year. The total authorizations for this program add up to $31 million over the next 3 fiscal years.

Mr. ROUSSELOT. That is certainly a substantial change.

Mr. BROYHILL. We also have authorization for future years.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I concur with the Senate amendment to the House amendment and give my support to S. 1466—the National Health Promotion and Disease Prevention Act of 1976.

Title I of this legislation draws upon a proposal I introduced last year to establish a national focal point for health education activities at the Federal level—and to expand Federal efforts in this most important area.

Similar bills were introduced in the House by Mr. ROGERS, and Mr. COHEN, and in the Senate by Senator KENNEDY.

As you know—the House passed an earlier version of this bill on April 8—which the administration opposed.

Today, I believe that this bill, as amended, meets the objections which were raised at that time.

I believe this proposal should be acceptable to all concerned.

First, the total cost of this bill is less than either of the original bills. This bill authorizes 308.2 million for titles I and 11 combined.

Second, the amount authorized for the office of health information and promotion is about one-half of what was in the original House bill. Now the figure is $31 million for 3 years compared with $60 million in the House bill.

Moreover several provisions with which HEW had concern—have been removed from the bill.

Thus the requirement for Federal review of health programs—the interdepartmental committee—and the Center for Health Promotion in the private sector—have been eliminated from the bill.

Yet, although the scope of these health promotion and health information activities has been reduced, the importance of this initiative should not be diminished.

I feel that there is a need to develop a comprehensive effort in the health education area. There is a need for an identifiable, responsible, focal point within HEW to carry out and to coordinate these activities.

Mr. Speaker, although great progress has been made in the field of medicine—through advances in technology—there is a growing recognition of the limitations of medical care to significantly influence the major causes of illness—disability and death.

I submit that it is time to give appropriate recognition to and support for the important role of preventive medicine and health information and health promotion activities.

In the long run we may well find that the preventive approach to health care can save our citizens money which might otherwise have been spent on costly medical care.

There is so much that individuals can do to protect and to promote their own health. We know that life expectancy and the quality of one's health in general can be improved when individuals eat properly—and exercise regularly—and engage in health promoting behavior.

This legislation also contains provi-

sions concerning the prevention and control of disease. Title II of the bill provides a 3-year extension and revision of existing authorities in this area. Included in the category of diseases are both communicable diseases—such as measles, polio, and mumps—as well as noncommunicable diseases such as hypertension and diabetes.

In all, I think this is a comprehensive bill which provides the authority needed to address the health problems whose solutions are vital to the health and well-being of our people.

I urge favorable consideration of S. 1466.

Thank you, Mr. Speaker.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's comments, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BROYHILL. Mr. Speaker, the bill we are considering would amend the Public Health Service Act, to extend and revise the program of assistance for the control and prevention of communicable diseases, and to provide for the establishment of the Office of Consumer Health Education and Promotion within the Office of the Assistant Secretary for Health, to reduce preventable illness, disability, and death; to promote progress and scholarship in consumer health education and promotion of school health education; and for other purposes.

On April 7 of this year, the House of Representatives considered and passed a bill with the same general objectives as the bill we are considering here today. I had considerable misgivings about the approach to the problem of providing health information to consumers and the cumbersome administrative machinery designed to carry it out, and the authorizations to fund it. Those misgivings were explained to the House and I offered amendments which I thought would improve the bill.

The problems with the bill, however, were basic. It proposed programs for health education of the public which were either duplicative of, or disrupting to sizable and well-conceived programs already underway. Title II of the bill continued categorical programs for communicable disease control in the shape of specific immunization programs, and I offered no amendments to that title.

Since the time that the House considered and passed H.R. 12678, much change has taken place. The other body passed a somewhat similar bill, S. 1466. Informal meetings and discussions concerning the provisions of the two bills and their relationship to administration programs and policies have taken place. Recommendations resulting from those meetings have resulted in the passage of a bill in the other body which incorporates those recommended changes. The bill which we consider today is identical to that Senate passed bill. Since there is agreement, we see no need to go through a conference.

Like most compromises, it is not the perfect solution, but it does eliminate the major objections which many of us had concerning the original bills. It eliminates to a great degree the duplication of effort. It confines title II to disease control whereas the other bill included prevention activities in this area also. The House bill had authorized $70 million for title I in fiscal year 1977. This bill and that taken up in the other body as a substitute for the previous actions, authorizes $7 million for title I in fiscal year 1977.

I am pleased to be able to support this new bill which is the result of such responsible consideration by all concerned.

Mr. COHEN. Mr. Speaker, I have watched the public health services amendments bill, S. 1466, progress through the legislative process, and I am delighted that we are on the threshold of this bill's enactment.

The first title of this legislation provides a significant congressional initiative in national health education—an initiative that is vitally important to the health of our citizens.

Although we spend more on health care and have more physicians per capita than any other Western industrialized nation, our mortality rates—from infancy through old age—are among the highest in the developed world.

The fault is not with our medical sophistication, but rather the tragedy lies in the fact that a great many individuals are unaware of their own role in the prevention and relief of ills and accidents, and lack the knowledge required to utilize the health care industry itself. We have sold society on the wonders of modern medicine and have created an insatiable demand for health services, but we have forgotten that our health status is also affected by personal hygiene, sanitary measures, nutrition, and our living and working conditions. The leading causes of desirability and death in this country today are chronic or behavioral conditions, such as heart and respiratory disease, cancer, obesity, alcoholism, accidents, and suicide. Effective control of these conditions is impossible without the active cooperation of an informed population.

If we are to control our newer epidemics, we must set forth a new strategy, one which assists us to understand the nature and causes of self-imposed risks, adds to our knowledge of illness, educates patients and consumers about health maintenance and prevention, and improves the physical and social environment. Whenever we attempt to improve the general condition of health or health care of a population along these lines, the need for improved health education appears high on the list. Yet, as a society we have not been willing to come to grips with health education because it is difficult—difficult to define, difficult to deliver, and difficult to measure in effectiveness. Rene Dubos alludes to this problem in this book, "The Mirage of Health"—

> To ward off disease or recover health, men as a rule find it easier to depend on healers than to attempt the more difficult task of living wisely.

I believe that the public is expressing a growing impatience with the overemphasis on the technology of medicine and the neglect of the patient as a responsible agent in the treatment of illness which can be remedied through an effective program of health education. There is evidence of a shifting emphasis among professionals from costly crises care to promotion of positive health and prevention of disability. In the last 2 years, we have witnessed:

The adoption by medicaid and Blue Cross of policies and guidelines to pay for patient education services;

Establishment of the Bureau of Health Education within HEW;

Initiation by the National Health Council of a project to develop detailed plans for a private National Center for Health Education;

Definition by the American Hospital Association of the health education roles and responsibilities of health care institutions;

Incorporation of health education in Federal laws on health organizations, emergency medical service systems, diabetes control programs, and drug abuse education.

The most noteworthy achievement in this area has been, in my opinion, the enactment of health planning legislation, Public Law 93-641, which makes health education one of the nine priorities on the formulation of national health policy and in the development and operation of Federal, State, and area health planning and resource development programs.

These activities may suggest to some that this legislation is only duplicative. Yet, I think one of the significant limitations of health education in the past has been the lack of central direction. This legislation addresses that fragmentation by establishing an office of consumer health information and health promotion in the office of the assistant secretary within HEW. The visability and authority of this office will create a focal point for policy coordination and development of all governmental health education activities, authorization of grants and contracts, and establishment of relationships with the private sector.

The programs visualized by this bill would develop several types of initiatives in research and demonstration providing our people with better information about their own health, how to maintain it and how to use the medical care system effectively.

Toward this end, funding must be made more available for the alternative approaches to health-care delivery envisioned by health education, focusing on those which are both human-effective and cost-effective. In view of the insignificant Federal contribution to health education—nearly four-tenths of 1 percent of the Federal health care dollar—I believe the sums authorized under this bill are achievable.

We must act to change the daily living habits of our overfed, overtired, overmedicated—in short, overindulgent—society. With this legislation we take our own first cautious and modest steps in that direction. Our goal, after all, is health, not a health care system. That, in my opinion, is the essence of health education.

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the matter just considered.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

AUTHORIZING APPROPRIATIONS FOR SALINE WATER CONVERSION PROGRAM FOR FISCAL YEAR 1977

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 11559) to authorize appropriations for the saline water conversion program for fiscal year 1977, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, lines 5 and 6, strike out "$9,700,000" and insert: "$7,090,000".

Page 1, lines 10 and 11, strike out "$2,100,000" and insert: "$1,200,000".

Page 2, lines 2 and 3, strike out "$1,200,000" and insert: "$1,600,000".

Page 2, line 5, strike out "$1,600,000" and insert: "$550,000".

Page 2, line 6, strike out "$600,000" and insert: "$300,000".

Page 2, line 8, strike out "$800,000" and insert: "$750,000".

Page 2, line 10, strike out "$900,000" and insert: "$850,000".

Page 2, line 14, strike out "$1,000,000" and insert: "$840,000".

Mr. JOHNSON of California. Mr. Speaker, I am pleased to offer the following explanation of the amendments of the Senate to H.R. 11559—to authorize appropriations for the saline water conversion program for fiscal year 1977.

This legislation, as passed by the House on April 5, 1976, authorized appropriations in the amount of $9,700,000 with which to finance desirable research and development activities in the field of saline water conversion. The net effect of the several amendments adopted by the Senate is to reduce the amount authorized to be appropriated by $2,160,000 thus limiting the authorization to $7,540,000.

This overall reduction is the net result of several decreases in individual line items and one increase—as compared to comparable levels in the House bill and are as follows:

First. Water reuse research and planning, decreased by $900,000.

Second. Seawater membrane development, increased by $400,000.

Third. Water reuse technology development, decreased by $1,100,000.

Fourth. Technology transfer, decreased by $300,000.

Fifth. Brackish water membrane development, decreased by $50,000.

Sixth. Freezing technology development, decreased by $50,000.

Seven. Administration and coordination, decreased by $160,000.

In recommending agreement with these amendments, Mr. Speaker, I would like to say that I do so only because I believe that this is the best bill we can get under the circumstances and it is important to complete action on it so that proper authorization will be available when the House considers the Interior Department appropriation bill for fiscal year 1977 later this month.

I do not believe that this level of funding does justice to the needs of this program and I am confident this opinion is shared by the vast majority of my colleagues on Interior and Insular Affairs, as well as those who serve on the Subcommittee on Interior Appropriations. It does, however, represent an increase of about $3 million over the level of activity approved by the Congress for fiscal year 1976 and on this basis I support the legislation as amended by the Senate and urge the House to agree to the Senate amendments.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON POST OFFICE AND CIVIL SERVICE TO MEET BETWEEN 10 A.M. AND 12 NOON ON WEDNESDAY AND THURSDAY, JUNE 9 AND 10, 1976

Mr. HENDERSON. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be permitted to meet between the hours of 10 a.m. and 12 noon on Wednesday and Thursday, June 9 and 10, of this week.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

FOURTH PERIODIC REPORT ON PROGRESS OF CYPRUS NEGOTIATIONS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94–517)

The SPEAKER laid before the House the following message from the President of the United States; which was read, referred to the Committee on International Relations, and ordered to be printed:

To the Congress of the United States:

Pursuant to Public Law 94–104, I am submitting my fourth periodic report on the progress of the Cyprus negotiations and the efforts this Administration is making to help find a lasting solution to the problems of the island. In previous reports I have detailed the Administration's efforts to revitalize the negotiating process so that the legitimate aspirations of all parties, and particularly those of the refugees, could be accommodated quickly and in the most just manner possible.

Differences on procedural issues have long prevented the Greek-Cypriot and Turkish-Cypriot communities from broaching such critical issues as territory, the form and function of the central government and other constitutional issues. Throughout the period since the hostilities of 1974, we have consistently urged serious consideration of these issues. As my most recent report indicated, an agreement was reached at the February round of the Cyprus intercommunal talks in Vienna, held under the auspices of United Nations Secretary General Waldheim, to exchange negotiating proposals on the key substantive issues of the Cyprus problem. When both sides submitted proposals in April to Secretary General Waldheim's Special Representative on Cyprus, a new impasse developed which delayed a complete exchange on the territorial question. Additionally, in April, Glafcos Clerides resigned his position as the Greek-Cypriot negotiator. These developments, with the subsequent appointment of new Greek-Cypriot and Turkish-Cypriot negotiators, resulted in the postponement of the next negotiating round which had been scheduled to take place in Vienna in May.

On April 15, I invited Greek Foreign Minister Bitsios to the White House for a very useful exchange of views on developments relating to Cyprus.

In addition, the United States and other interested parties maintained close contact with Secretary General Waldheim to support his attempts to resolve these difficulties and resume the intercommunal negotiating process. These efforts culminated in discussions on the occasion of the Oslo NATO Ministerial meeting in late May where Secretary of State Kissinger held separate meetings with Turkish Foreign Minister Caglayangil and Greek Foreign Minister Bitsios, following which the Greek and Turkish Foreign Ministers met together to discuss outstanding bilateral issues including Cyprus. In the course of this process, the Secretary of State stressed the absolute need to move expeditiously to discuss the key outstanding Cyprus issues.

The Secretary of State also publicly emphasized our continuing concern that a rapid solution of the Cyprus dispute be achieved and reiterated the firm position of this Administration that the current territorial division of the island cannot be permanent.

Following the meetings in Oslo, views on territorial issues were exchanged by the two Cypriot communities, and it should now be possible to reinitiate the negotiating process under the auspices of UN Secretary General Waldheim.

The United States will continue to contribute actively to these efforts aimed at a solution to the Cyprus problem. I remain convinced that progress can be registered soon if mutual distrust and suspicions can be set aside, and each side genuinely tests the will of the other side to reach a solution. For our part, we shall remain in touch with Secretary General Waldheim and all interested parties to support the negotiating process. Our objective in the period ahead, as it has been from the beginning of the Cyprus crisis, is to assist the parties to find a just and equitable solution.

GERALD R. FORD.

THE WHITE HOUSE, *June 7, 1976.*

PERMISSION FOR COMMITTEE ON POST OFFICE AND CIVIL SERVICE TO MEET BETWEEN 10 A.M. AND 12 NOON ON WEDNESDAY AND THURSDAY, JUNE 9 AND 10, 1976

Mr. HENDERSON. Mr. Speaker, I again renew my unanimous-consent request that the Committee on Post Office and Civil Service be permitted to meet between the hours of 10 a.m. and 12 noon on Wednesday and Thursday, June 9 and 10, of this week.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, does the gentleman assure us that the committee will not meet beyond 12 on those days?

Mr. HENDERSON. Mr. Speaker, I assure the gentleman from California that the committee will not meet beyond 12 on those days.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CALL OF THE HOUSE

Mr. MONTGOMERY. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 333]

Abzug	Gonzalez	Passman
Adams	Gradison	Pepper
Alexander	Green	Perkins
Allen	Guyer	Peyser
Anderson, Calif.	Hall	Pickle
	Hansen	Poage
Anderson, Ill.	Harrington	Rangel
Andrews, N.C.	Harsha	Rees
Annunzio	Hays, Ohio	Richmond
Ashley	Hébert	Riegle
AuCoin	Heckler, Mass.	Risenhoover
Badillo	Heinz	Rodino
Bell	Helstoski	Roybal
Biaggi	Hicks	Ryan
Blanchard	Hinshaw	Scheuer
Boggs	Jeffords	Schneebeli
Bolling	Jenrette	Shuster
Brown, Ohio	Jones, Ala.	Sisk
Burke, Calif.	Jordan	Solarz
Burton, John	Karth	Stanton, James V.
Butler	Kindness	
Carney	Koch	Stephens
Chisholm	Krebs	Stokes
Clancy	Krueger	Stuckey
Clawson, Del	Landrum	Symington
Conyers	Latta	Symms
Cornell	Levitas	Talcott
Daniels, N.J.	Litton	Teague
Danielson	Long, La.	Thompson
Davis	Lundine	Udall
Dellums	McCloskey	Van Deerlin
Derrick	McCormack	Vander Veen
Derwinski	McDade	Vanik
Diggs	McKay	Wampler
Edgar	Maguire	Whalen
Erlenborn	Mathis	Wilson, Bob
Esch	Matsunaga	Wilson, C. H.
Eshleman	Milford	Wydler
Evans, Colo.	Miller, Ohio	Young, Alaska
Florio	Mineta	Young, Fla.
Fraser	Mink	Young, Ga.
Frenzel	Moakley	Zeferetti
Giaimo	Nichols	
Goldwater	O'Hara	

The SPEAKER. On this rollcall 303 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to, under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated, and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

AMENDING THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT OF 1958

Mr. SMITH of Iowa. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13567) to amend the Small Business Act and the Small Business Investment Act of 1958, as amended.

The Clerk read as follows:

H.R. 13567

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AUTHORIZATIONS AND LIMITATIONS

PART A

SURETY BOND GUARANTEES

SEC. 101. Section 412 of the Small Business Investment Act of 1958 is amended by striking out "$56,500,000" and by inserting in lieu thereof "$71,000,000".

BUSINESS: LOAN AND INVESTMENT FUND

SEC. 102. Section 4(c)(4) of the Small Business Act is amended by striking out "$6,000,000,000" and by inserting in lieu thereof $8,000,000,000".

ECONOMIC OPPORTUNITY LOANS

SEC. 103. Section 4(c)(4) of the Small Business Act is amended by striking out "$450,000,000" and by inserting in lieu thereof "$525,000,000".

SMALL BUSINESS INVESTMENT COMPANIES

SEC. 104. Section 4(c)(4) of the Small Business Act is amended by striking out "$725,000,000" and by inserting in lieu thereof "$1,100,000,000".

PART B

LINE ITEM PROGRAM AUTHORIZATIONS

SEC. 105. Section 4(c) of the Small Business Act is amended by striking out paragraph (4) and by inserting in lieu thereof the following:

"(4) The following program levels are authorized:

"(A) For fiscal year 1978:

"(i) For the programs authorized by section 7(a) of this Act the Administration is authorized to make $400,000,000 in direct loans, $15,000,000 in immediate participation loans, and $2,500,000,000 in deferred participation loans.

"(ii) For the programs authorized by section 7(h) of this Act the Administration is authorized to make $20,000,000 in direct and immediate participation loans and $20,000,000 in guaranteed loans.

"(iii) For the programs authorized by section 7(i) of this Act the Administration is authorized to make $60,000,000 in direct and immediate participation loans and $81,000,000 in guaranteed loans.

"(iv) For the programs authorized by sections 501 and 502 of the Small Business Investment Act of 1958 the Administration is authorized to make $40,000,000 in direct and immediate participation loans and $20,000,000 in guaranteed loans.

"(v) For the programs authorized by title III of the Small Business Investment Act of 1958 the Administration is authorized to make $20,000,000 in direct purchase of debentures and preferred securities and to make $180,000,000 in guarantees of debentures.

"(vi) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958 the Administration is authorized to enter guarantees not to exceed $915,000,000.

"(vii) For the programs authorized by sections 7(b)(3), 7(b)(4), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8), and 7(g) of this Act the Administration is authorized to enter loans, guarantees, and other obligations or commitments not to exceed $300,000,000.

"(B) for fiscal year 1979:

"(i) For the programs authorized by section 7(a) of this Act the Administration is authorized to make $440,000,000 in direct loans, $17,000,000 in immediate participation loans, and $2,800,000,000 in deferred participation loans.

"(ii) For the programs authorized by section 7(h) of this Act the Administration is authorized to make $22,000,000 in direct and immediate participation loans and $22,000,000 in guaranteed loans.

"(iii) For the programs authorized by section 7(i) of this Act the Administration is authorized to make $66,000,000 in direct and immediate participation loans and $89,000,000 in guaranteed loans.

"(iv) For the programs authorized by sections 501 and 502 of the Small Business Investment Act of 1958 the Administration is authorized to make $44,000,000 in direct and immediate participation loans and $22,000,000 in guaranteed loans.

"(v) For the programs authorized by title III of the Small Business Investment Act of 1958 the Administration is authorized to make $22,000,000 in direct purchase of debentures and preferred securities and to make $198,000,000 in guarantees of debentures.

"(vi) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958 the Administration is authorized to enter guarantees not to exceed $1,010,000,000.

"(vii) For the programs authorized by sections 7(b)(3), 7(b)(4), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8), and 7(g) of this Act the Administration is authorized to enter loans, guarantees, and other obligations or commitments not to exceed $330,000,000."

SEC. 106. Section 403 of the Small Business Investment Act of 1958 is amended by striking out "from time to time such amounts not to exceed $10,000,000 to provide capital for the fund" and by inserting in lieu thereof ", as capital thereof, such amounts as may be necessary to carry out the functions of the Administration, which appropriations shall remain available until expended".

SEC. 107. Section 412 of the Small Business Investment Act of 1958 is amended by striking out "from time to time such amounts not to exceed $35,000,000 to provide capital for the fund" and by inserting in lieu thereof ", as capital thereof, such amounts as may be necessary to carry out the func-

tions of the Administration, which appropriations shall remain available until expended".

SEC. 108. Part B of this title shall become effective on October 1, 1977.

TITLE II

MISCELLANEOUS CONFORMING AND TECHNICAL AMENDMENTS

SEC. 201. Section 4(c)(2) of the Small Business Act is amended by striking out "and 7(c)(2)" and by inserting in lieu thereof "7(c)(2), and 7(g)".

SEC. 202. Section 4(c)(5) of the Small Business Act is amended by striking out "Committees on Banking and Currency of the Senate and House of Representatives" and by inserting in lieu thereof "Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Small Business of the House of Representatives".

SEC. 203. Section 10(b) of the Small Business Act is amended by striking out "House Select Committee To Conduct a Study and Investigation of the Problems of Small Business" and by inserting in lieu thereof "Committee on Small Business of the House of Representatives".

SEC. 204. Section 10(e) of the Small Business Act is amended by striking out "House Select Committee To Conduct a Study and Investigation of the Problems of Small Business" and by inserting in lieu thereof "Committee on Small Business of the House of Representatives".

SEC. 205. Section 10(g) of the Small Business Act is amended by striking out "Banking and Currency" and by inserting in lieu thereof "Small Business".

SEC. 206. Section 5316 of title 5, United States Code, is amended by striking from paragraph (11) the figure "(3)" and by inserting the figure "(4)".

REPORTS TO THE PRESIDENT AND THE CONGRESS

SEC. 207. Section 10(a) of the Small Business Act (15 U.S.C. 639(a)) is amended by adding at the end thereof the following new sentence: "With respect to minority small business concerns, the report shall include the proportion of loans and other assistance under this Act provided to such concerns, the goals of the Administration for the next fiscal year with respect to such concerns, and recommendations for improving assistance to minority small business concerns under this Act.".

TITLE III—AMENDMENTS TO SMALL BUSINESS ADMINISTRATION LOAN AUTHORITY

HOMEBUILDERS

SEC. 301. Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by inserting the following after the semicolon at the end of the first clause "or to finance residential or commercial construction or rehabilitation for sale: *Provided, however,* That such loans shall not be used primarily for the acquisition of land;".

COMPLIANCE LOANS

SEC. 302. Section 7(b)(5) of the Small Business Act is amended by inserting immediately after "any Federal law" the words "heretofore or hereafter enacted".

MORATORIUMS

SEC. 303. Section 5 of the Small Business Act is amended by adding at the end thereof the following new subsection:

"(f)(1) Subject to the requirements and conditions contained in this subsection, upon application by a small business concern which is the recipient of a loan made under this Act, the Administration shall assume the small business concern's obligation to make the required payments under such loan or shall suspend such obligation if the loan was a direct loan made by the Administration. While such payments are being made by the Administration pursuant to the assumption of such obligation or while such obligation is suspended, no such payment with respect to the loan shall be required by the small business concern.

"(2) The Administration shall assume or suspend for a period of not to exceed five years any small business concern's obligation under this subsection only if—

"(A) without the assumption or suspension of the obligation, the small business concern would, in the opinion of the Administration, become insolvent or remain insolvent;

"(B) with the assumption or suspension of the obligation, the small business concern would, in the opinion of the Administration, become or remain a viable small business entity; and

"(C) the small business concern executes a satisfactory agreement in writing as provided by paragraph (3).

"(3) Notwithstanding the provisions of sections 7(a)(4)(C) and 7(i)(1) of this Act, the Administration may extend the maturity of any loan on which the Administration assumes or suspends the obligation pursuant to this subsection for a corresponding period of time.

"(4)(A) Prior to the assumption or suspension by the Administration of any small business concern's obligation under this subsection, the Administration, consistent with the purposes sought to be achieved herein, shall require the small business concern to agree in writing to repay to it the aggregate amount of the payments which were required under the loan during the period for which such obligation was assumed or suspended, either—

"(i) by periodic payments not less in amount or less frequently falling due than those which were due under the loan during such period, or

"(ii) pursuant to a repayment schedule agreed upon by the Administration and the small business concern, or

"(iii) by a combination of the payments described in clause (i) and clause (ii).

"(B) In addition to requiring the small business concern to execute the agreement described in subparagraph (A), the Administration shall, prior to the assumption or suspension of the obligation, take such action, and require the small business concern to take such action, including the provision of such security as the Administration deems appropriate in the circumstances, as may be necessary or appropriate to insure that the rights and interests of the lender will be safeguarded adequately during and after the period in which such obligation is so assumed or suspended.

"(5) The term 'required payments' with respect to any loan means payments of principal and interest under the loan.".

SEC. 304. Section 4(c) of the Small Business Act is amended by inserting in clauses (1)(A) and (2)(A) thereof "5(f)", after the word "sections".

TITLE IV—AMENDMENTS TO SMALL BUSINESS ADMINISTRATION DISASTER LOAN AUTHORITY

DISPLACED BUSINESS LOANS

SEC. 401. Section 4(c) of the Small Business Act is amended as follows:

(1) by inserting in paragraph (1)(A) after the figure "7(b)(2)," the figure "7(b)(3),", and by striking from paragraph (1)(B) thereof the figure "7(b)(3),";

(2) by inserting in paragraph (2)(A) after the figure "7(b)(2)," the figure "7(b)(3),", and by striking from paragraph (2)(B) thereof the figure "7(b)(3),"; and

(3) by striking from paragraph (4) thereof the figure "7(b)(3),".

SEC. 402. Section 7 of the Small Business Act is amended by striking "federally aided urban renewal program or a highway project or any other construction constructed by or with funds provided in whole or in part by the Federal Government" and by inserting in lieu thereof "program or project constructed by or with funds provided in whole or in part by the Federal Government or by a program or project by a State or local government or public service entity, providing such government or public service entity has the authority to exercise the right of eminent domain on such program or project".

ECONOMIC INJURY LOANS

SEC. 403. Section 7(b)(2) of the Small Business Act is amended by adding "or" after the semicolon at the end of section 7(b)(2)(B) and by adding the following:

"(C) a disaster as determined by the Administrator of the Small Business Administration pursuant to the Disaster Relief Act of 1970; and

"(D) if no disaster declaration has been issued pursuant to (A), (B), or (C) herein, the Governor of a State in which a disaster has occurred may certify to the Small Business Administration that small business concerns (1) have suffered economic injury as a result of such disaster, and (2) are in need of financial assistance which is not available on reasonable terms in the disaster stricken area. Upon receipt of such certification, the Administration may then make such loans as would have been available under this paragraph if a disaster declaration had been issued;".

TITLE V—CERTIFICATE OF COMPETENCY

SEC. 501. Section 8(b) of the Small Business Act is amended by striking paragraph (7) and by inserting in lieu thereof the following:

"(7)(A) to certify to Government procurement officers, and officers engaged in the sale and disposal of Federal property, with respect to all elements of responsibility, including, but not limited to, capability, competency, capacity, credit, integrity, perseverance, and tenacity of any small business concern or group of such concerns to receive and perform a specific Government contract. A Government procurement officer or an officer engaged in the sale and disposal of Federal property may not, for any reason specified in the preceding sentence, preclude any small business concern or group of such concerns from being awarded such contract without referring the matter for a final disposition to the Administration.

"(B) If a Government procurement officer finds that an otherwise qualified small business concern may be ineligible due to the provisions of section 35(a) of title 41, United States Code of the Walsh-Healey Act, he shall notify the Administration in writing of such finding. The Administration shall review such finding and shall either dismiss it and certify the small business concern to be an eligible Government contractor for a specific Government contract or if it concurs in the finding, forward the matter to the Secretary of Labor for final disposition, in which case the Administration may certify the small business concern only if the Secretary of Labor finds the small business concern not to be in violation.

"(C) In any case in which a small business concern or group of such concerns has been certified by the Administration pursuant to (A) or (B) to be a responsible or eligible Government contractor as to a specific Government contract the officers of the Government having procurement or property disposal powers are directed to accept such certification as conclusive and shall let such Government contract to such concern or group of concerns without requiring it to meet any other requirement of responsibility or eligibility.".

TITLE VI—SMALL BUSINESS SET-ASIDES

SEC. 601. Section 15 of the Small Business Act is amended by adding the following at the end thereof: "With respect to any work to be performed the amount of which would

exceed the maximum amount of any contract for which a surety may be guaranteed against loss under section 411 of the Small Business Investment Act of 1958 (15 U.S.C. 694(b)), the contracting procurement agency shall to the extent feasible place contracts so as to allow more than one small business concern to perform such work.".

The SPEAKER. Is a second demanded?

Mr. J. WILLIAM STANTON. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent to revise and extend my own remarks and also that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the bill (H.R. 13567) now under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will very briefly explain the bill and then yield later for questions, if there are any.

Mr. Speaker, I rise in strong support of H.R. 13567 and urge the immediate passage of this legislation.

The purpose of this bill is to increase the Small Business Administration's authorizations and limitations on its loan programs; and to increase the scope of eligibility for SBA assistance and the terms thereof.

Mr. Speaker, subsequent to the reporting of this bill by the committee, the President last Friday signed S. 2498 which contains some provisions which are also contained in H.R. 13567. Accordingly, additional amendments have been made and sent to the desk. The only purpose of these additional amendments is to eliminate the duplicative provisions, namely:

Line 1, page 11, through line 12, page 13, which would have provided for SBA loans to food producers, increased the maximum amount of certain SBA loans, and authorized development company loans to be used to acquire existing plants.

Line 7, page 15, through line 21, page 16, which would have provided for a Presidential study of disaster relief and transferred unchanged into the Small Business Act the language setting the interest rate on SBA natural disaster loans, the language now being contained in the Consolidated Farm and Rural Development Act.

Line 13, page 18, through line 4, page 30, which would have established a new program for financing pollution control facilities and required a study of small business by SBA's Chief Counsel for Advocacy.

The purpose of this bill is to:

Increase SBA's authorizations and limitations for fiscal year 1977 as needed—as requested by the President—and establish operating levels for all of SBA's programs for fiscal years 1978 and 1979;

Make miscellaneous conforming and technical amendments to the Small Business Act and the Small Business Investment Act;

Authorize SBA to provide financial assistance to small homebuilders; enlarge the eligibility for SBA compliance loans; and authorize up to a 5-year moratorium on repayment of SBA loans;

Authorize SBA to make displaced business loans to a small concern which has been displaced by a project by a State or local government; and authorize SBA to make economic injury loans to small business concerns in an area affected by a natural disaster upon the request of the Governor of the State involved;

Expand SBA's certificate of competency program by including the final determination of all elements of responsibility and specific aspects of eligibility of a small business for purposes of bidding on Government contracts; and

Direct Federal agencies, to the extent feasible, to divide small business setaside contracts into amounts of less than $1,000,000 each.

The subcommittee on SBA and SBIC legislation held 6 days of hearings on some 30 bills which were referred to us during this Congress. The subcommittee held a markup session and subsequently introduced a clean bill, H.R. 13567, which is cosponsored by every member of the subcommittee and by other interested Members, and forwarded it to the full committee with a favorable recommendation. The full committee made one amendment by adding title VIII and unanimously ordered it favorably reported, as amended, by a recorded vote of 33 to 0.

In the committee's report, there is a summary of SBA's current major financial programs and I would commend that portion of the report to Members who may have questions about what SBA is and what it does.

Since this is an omnibus bill, a detailed discussion of it would consume a considerable amount of the House's time. I am, therefore, only going to hit the highlights.

TITLE I

In order to continue the operation of SBA programs through fiscal year 1977, it is necessary to increase the limitation on the amount of financial assistance which may be outstanding under the business loan and investment fund from $6 billion to $8 billion; to increase the sublimitation on the amount of economic opportunity loans which may be outstanding from $450,000 to $525,000; and to increase the sublimitation on the amount of financial assistance which may be outstanding to small business investment companies from $725,000 to $1,100,000,000. These are the amounts which have been requested by the President.

Although the above increases will carry SBA through fiscal year 1977, it would be better planning and facilitate greater performance to specify the program levels at which SBA might operate for several years in advance. This would also provide for more congressional control over SBA and would more clearly give SBA and the small business community an indication of the amount of assistance which it might anticipate to be forthcoming from SBA during the next several years and would also eliminate the necessity for Congress to deal with SBA's program levels each year.

TITLE II

SMALL BUSINESS COMMITTEE

At the commencement of the 94th Congress, legislative responsibility for providing assistance to and protection of small business, including financial aid, and participation of small business enterprises in Federal procurement and Government contracts, was given to the House Small Business Committee. This jurisdiction was formerly with the House Committee on Banking, Currency and Housing, and the Small Business Committee was a select committee.

The Small Business Act specifically provides for the submission of certain reports and information to the House Select Committee on Small Business and to the House Committee on Banking and Currency. In order to carry out the change in legislative jurisdiction, these reports and information should now be provided to the House Committee on Small Business and the Small Business Act so amended.

ASSOCIATE ADMINISTRATOR FOR MINORITY SMALL BUSINESS

Prior to 1974, SBA had three Associate Administrators. In that year, a new position of Associate Administrator for Minority Small Business was established and one has been appointed. Although SBA's three other Associate Administrators are established at Executive Level V, no executive level was established for the new Associate Administrator and he should be similarly established at the same executive level.

SBA'S ANNUAL REPORT

SBA submits an annual report to the President, the President of the Senate, and the Speaker of the House of Representatives. The report includes a description of the state of small business, a description of the operations of SBA and recommendations for strengthening or improving SBA's programs. Although SBA is statutorily directed to provide specific assistance to socially and economically disadvantaged individuals, it does not, in its annual report, specifically report on minority small business concerns. A breakdown of the assistance provided to minorities, the goals of the administration for the next fiscal year with respect to such concerns, and recommendations for improving assistance to them would be helpful.

TITLE III—HOMEBUILDERS

A homebuilder, regardless of size, and although over 80 percent of all homebuilders are small businesses, is precluded by SBA from receiving financial assistance. SBA bases this preclusion on their policy that homebuilders as a class are speculators, unless the homebuilder is a custom builder, that is, he is performing the construction under a contract with a specific purchaser.

This requirement of an assured customer is not applied to other industries. A manufacturer does not have assured customers for his products nor does a

wholesaler or retailer have assured customers for their line of business and yet all of these are eligible for SBA assistance and are given SBA assistance.

Many small homebuilders are unable to obtain loans from banks because of the modest size of their operation. This credit problem affects the small builder no less than it affects other small businessmen in their attempt to obtain bank financing. Like other small businessmen, the homebuilder needs help from time to time from some other source to make the financial arrangements necessary for the firm's economic well-being.

No other agency or department of the Federal Government, including the Department of Housing and Urban Development, currently provides the same kind of direct financial assistance to homebuilders as does the SBA to other small businessmen.

A number of Members have introduced legislation to correct this inequity, including Congressmen LAFALCE, WHALEN, LEHMAN, HAMILTON FISH, LEVITAS, and Mrs. BOGGS. I intend to subsequently recognize such of these Members as may desire to be heard on this provision.

COMPLIANCE LOANS

Under section 7(b)(5) of the Small Business Act, SBA makes loans to small business concerns in order to assist them in effecting additions to or alterations in its plant, facilities, or methods of operation to meet requirements imposed upon the business pursuant to any Federal or State law or regulation issued in conformity with the Federal law.

Unless, however, the Federal law was enacted subsequent to enactment of this provision in January of 1974 or unless SBA had a specific loan program established prior thereto, SBA refuses to make these compliance loans to meet statutory requirements. This prospective interpretation of the compliance loan authority denies assistance to small concerns which are required to meet federally imposed or authorized standards established by earlier law.

The requirements of any Federal or State law impose just as much of a financial burden upon small business concerns who must meet these standards, regardless of the date when the requirement was imposed. Thus they should be eligible to receive the same type of assistance.

This lack of SBA assistance has caused considerable problems for small nursing homes which have been required by the Department of Health, Education, and Welfare to comply with the provisions of the Life Safety Code of the National Fire Protection Association. Legislation to correct this injustice was introduced by Congressman LOTT and I will subsequently recognize him if he is desirous of making a statement.

MORATORIUMS

As a prerequisite to making any loan, SBA must first determine that there is a reasonable assurance of repayment. The statute also imposes a maximum maturity date or a maximum term for the loan and many SBA loans are made for a maximum statutory term.

Subsequent to the making of a loan, some small business concerns experience financial difficulties, oftentimes due to causes beyond their control, for example, the recent economic recession. Some of these concerns would be able to survive and prosper if there was specific authority in SBA to defer the payments due either to SBA or to a bank which had made a guaranteed loan.

Under the existing law, SBA may defer such payments only in order to provide for an orderly liquidation of the loan. It would be to the benefit of all concerned to give SBA specific statutory authority to grant deferments in other situations providing that without it the borrower would become insolvent or remain insolvent and further providing that with the assumption or suspension of the obligation the borrower would become or remain a viable small business entity.

Legislation to specifically authorize a temporary moratorium on the repayment of SBA loans was introduced by Mr. PARREN MITCHELL and Mrs. MINK and I will also subsequently recognize them.

TITLE IV

DISPLACED BUSINESS LOANS

The Small Business Administration is specifically authorized under section 7(b)(3) to make loans to small business concerns to assist them in continuing in business or in establishing a new business if the concern has been harmed by a project or program constructed by or with Federal funds. These loans are funded under SBA's Business loan and investment fund, whereas all of SBA's other nonphysical disaster loans are funded under its disaster fund.

Small businesses sustain just as much financial injury when they are displaced by a project or program by a State or local government or public service entity and need Federal loan assistance to assist in their recovery.

Loan assistance, which would carry interest at a rate above the cost of interest to the Federal Government, should be provided to cover this situation, and all displaced business loans should be funded through SBA's disaster loan revolving fund as are all other nonphysical disaster loans.

ECONOMIC INJURY LOANS

SBA is authorized to make loans to small businesses which are located in an area affected by a natural disaster if they suffer substantial economic injury as a result of the disaster, but only if the disaster was declared by the President, the Secretary of Agriculture or the Administrator of SBA.

There are many small businesses which suffer the requisite economic injury but are unable to obtain this type of loan because of the local nature of the disaster.

Those concerns affected by a natural disaster should be eligible for economic injury type loans even if the disaster was not of such proportion as to necessitate a disaster declaration. For example, a fire destroyed a telephone company office recently and disrupted service to thousands of small business concerns. This disruption imposed severe financial loss upon many of these concerns which were dependent upon telephone service to solicit customers. Because the fire did not qualify for a disaster declaration, those small businesses which were harmed could not receive this type of SBA loan assistance.

Severe localized damages from storms, floods, fire, and droughts oftentimes cause severe financial loss to small businessmen in the impacted area. For example, in Alpine County, Calif., the entire community of Bear Valley has filed bankruptcy due to lost business revenue because ski lodges could not operate because of a lack of snow. If some type of Federal loan assistance had been available, many of these financially injured small concerns could have ultimately recovered.

Congressmen JOHN MCFALL and DICK OTTINGER have introduced legislation to rectify this situation and I will, subsequently, recognize them.

TITLE V

Section 8(b)(7) of the Small Business Act authorizes the Small Business Administration to issue a "certificate of competency"—COC. This document certifies to a Federal procuring activity that a small business concern is competent as to capacity and credit to perform a specific Government contract. Whenever any question arises as to the capacity and credit of such small business concern, the Government procurement officer refers the matter to the Small Business Administration, and its subsequent decision on the matter is conclusive. There is, at present, no statutory requirement mandating that once a COC is issued the contract must be let to the small business, nor does the statute include other elements aside from a small business' capacity or credit. This has resulted in severe problems for the small business community.

Small business can and has been denied Government contracts because the procuring activity has determined that the small business lacked the requisite "tenacity, perseverance, or integrity" to perform a specific Government contract. Such a finding results in the small firm being branded as "nonresponsible." Resort to the COC procedure in such cases is not available since capacity and credit are, purportedly, not involved. Although SBA normally has the right to appeal such determinations to a higher authority within the procuring activity, such action is of questionable value as there is an inherent difficulty in asking a bureaucracy to overrule itself. Also, the procurement need not be held in abeyance pending the appeal if the contracting officer subjectively determines that the items called for by the contract are urgently needed.

There is yet another instance when procurement officers needed not refer a matter to SBA for a COC determination, which is working an inequity on small business.

A bidder on a Government contract must also show that he is a manufacturer of or a regular dealer in the materials, supplies, articles, or equipment to be manufactured or used in the performance of the contract. Rules and regulations of the Department of Labor require that a procurement officer must

reject bids from a bidder who is not a "manufacturer or dealer" within the meaning of the statute. If a small business is deemed ineligible due to this provision of the Walsh-Healey Act, there is no recourse to the COC procedure. The small business does have the right to appeal the determination to the Department of Labor. However, your committee is not aware of any case in which the Department of Labor has reversed a finding of ineligibility made pursuant to this act.

The application of the Department of Labor rulings varies widely in different areas of the country. Bidders who would be eligible in one area are declared ineligible in another. For example, a bidder was declared ineligible because he did not manufacture the pencils to be included in a kit which was to be supplied to the Government.

The literal implementation of this requirement would exclude such corporate giants as General Motors or Rockwell International from receiving Government contracts. Very few firms produce every integral part that goes into the finished product. But this test is being applied most harshly to small business. The Defense Contract Administration Services has used this test on numerous occasions when conducting its preaward surveys on potential Government contractors. When low bidders are declared ineligible because of an inequitable application of a good law, the Government pays more for its products, and small business is unjustly denied an opportunity to perform on Federal contracts.

Legislation dealing with this subject was introduced by our colleague JOSEPH P. ADDABBO and I will subsequently recognize him.

TITLE VIII

The Small Business Act and numerous other statutes recognize the role which small business should play in our economy, particularly in providing goods and services to the Federal Government. This recognition is indicated by statutory language requiring that small business receive a fair portion of the total purchases and contracts for property and services for the Government.

All Federal agencies set aside some of the contracts exclusively for bidding by small business. The Miller Act requires that a successful bidder provide a surety bond to insure the performance of any Federal contract for more than $2,000. The Small Business Administration operates a surety bond guarantee program under which SBA will reimbuse the surety for loss sustained on a surety bond issued on behalf of the small business, providing the size of the contract does exceed $1 million.

Some Federal contracts, however, which are set aside for small business are for more than $1 million. Most small businesses cannot obtain the necessary surety bond in excess of this amount and thus are effectively precluded from bidding on small business set-asides which exceed $1 million.

It would be beneficial to all concerned to direct the Federal agency which is letting a contract as a small business set-aside to divide large contracts into smaller ones, to the extent feasible, so as to keep set-aside contracts to less than $1 million.

CONCLUSION

This legislation which is before the House this afternoon was written by the subcommittee after conducting extensive hearings upon numerous bills which were introduced to rectify problems facing the small businessman.

Again I want to stress that the cosponsors of this bill were jointly responsible for the development of this bill. This bill originated in the legislative branch and combines the ideas of the cosponsors. It is a bipartisan or nonpartisan bill. The ranking minority member of the full committee, Mr. CONTE, and of the subcommittee, Mr. J. WILLIAM STANTON, worked hard and constructively to develop this measure which was unanimously reported by the subcommittee and subsequently by the full committee. It should receive the bipartisan support of the entire membership of the House, and I urge its immediate passage.

RECOGNITION OF MEMBERS

Mr. Speaker, as chairman of the Small Business Legislative Subcommittee, I want to commend all of the members of the subcommittee who devoted their time to attendance and participation in the numerous days of hearings which culminated in the drafting of this legislation.

Also, on behalf of the subcommittee, I want to commend the Members of the House who brought the problems of small business to our attention and who also proposed legislative solutions to these problems. These Members, although many of them do not serve on the Small Business Committee, have a keen interest in the viability of small businessmen throughout the Nation and provided us with the information and assistance so that we can carry out our responsibility of providing assistance to and protection of small business. Thus I want to single out for special recognition because of the input they provided us: The gentleman from California (Mr. MCFALL), the distinguished majority whip; the gentleman from New York (Mr. LAFALCE), the gentlewoman from Louisiana (Mrs. BOGGS) and the gentlewoman from Hawaii (Mrs. MINK); and Messrs. ADDABBO, DOWNEY, FISH, LEHMAN, LEVITAS, LOTT, MITCHELL of Maryland, OTTINGER, and WHALEN.

Mr. Speaker, at this time I yield such time as he may consume to the chairman of the full committee, the gentleman from Tennessee (Mr. EVINS).

Mr. EVINS of Tennessee. Mr. Speaker, I want to commend the distinguished gentleman from Iowa (Mr. SMITH), the able and genial chairman of the Legislative Subcommittee of the House Small Business Committee for his action on this bill.

Thorough and lengthy hearings have been held and all titles, sections and provisions of this measure have been thoroughly considered.

This measure—H.R. 13567—which has been cosponsored by a number of Members, including myself, has my strong support.

This bill would expand and liberalize SBA loan programs in a number of ways, including—

Increase SBA's authorizations and limitations for fiscal year 1977, as needed, and establish operating levels for all of SBA's programs for fiscal years 1978 and 1979;

Make miscellaneous conforming and technical amendments to the Small Business Act and the Small Business Investment Act of 1958—which is also needed;

Authorize SBA to provide financial assistance to small homebuilders—enlarge the eligibility for SBA compliance loans—and authorize up to a 5-year moratorium on repayment of SBA loans;

Authorize SBA to make displaced business loans to a small concern which has been displaced by a project by a State or local government—authorize SBA to make economic injury loans to small business concerns in an area affected by a natural disaster upon the request of the Governor of the State involved;

Expand SBA's certificate of competency program by including the final determination of all elements of responsibility and several aspects of eligibility of a small business for purposes of bidding on Government contracts; and further

Direct Federal agencies, to the extent feasible, to divide small business set-aside contracts into amounts of less than $1 million each.

All these expanding, broadening and liberalizing provisions are needed and are the result of much study by our committee.

I should point out that some 30 bills were introduced and referred to the Small Business Committee dealing with matters affecting small business which are covered in this omnibus bill.

Extensive hearings on these measures were held by the Subcommittee on SBA and SBIC legislation.

The subcommittee considered these bills, held a markup session and subsequently introduced a clean bill—H.R. 13567, the measure now before the House—and forwarded it to the full committee with a favorable recommendation.

The full committee added title VIII to the bill and unanimously ordered the measure favorably reported, as amended, on May 11, last, by a recorded vote of 33 ayes and no noes.

Mr. Speaker, I want to stress that the problems of small business are nonpartisan in nature. I am extremely pleased to note that the Small Business Committee has always regarded them as such and this is certainly reflected by this bill. Every member of the Legislative Subcommittee—both Democrat and Republican alike—has cosponsored this bill.

Also, every member of the committee, who was able to attend the meeting, voted for the bill and none opposed it. The bill was unanimously reported.

In addition to commending the chairman of the Legislative Subcommittee—NEAL SMITH of Iowa—I want to commend also the ranking minority member of the subcommittee—J. WILLIAM STANTON of Ohio; the ranking minority member of the full committee—SILVIO CONTE of

Massachusetts—along with all the other members of the House Small Business Committee for their efforts during this Congress.

This omnibus Small Business Committee bill is the product of the new Small Business Committee, which was expanded in size and stature and given legislative responsibility during the 94th Congress.

The committee has measured up to its new trust and responsibility as expected.

To date, some 85 bills and resolutions have been referred to the Legislative Subcommittee.

The Subcommittee on SBA and SBIC Legislation has held 14 days of hearings on these measures.

Action on 53 bills has been completed, and hearings have been completed on 4 others. Only 24—or less than 30 percent—await subcommittee action. This is an outstanding record and one of which every Member of the House can be justly proud.

I believe that the House has already shown its high regard for the legislation which has been reported by the Small Business Committee.

One bill was passed by a recorded vote of 402 to 0—two were overwhelmingly passed by a voice vote—and one was passed by a vote of 392 to 0—and was signed into law last Friday by the President.

Again, I strongly support this bill. It is a good bill and needed in the public interest.

I urge approval of this measure.

Mr. ADDABBO. Mr. Speaker, will the gentleman yield?

Mr. EVINS of Tennessee. I yield to the gentleman from New York.

Mr. ADDABBO. Mr. Speaker, I rise in support of H.R. 13567. I wish to associate myself with the remarks of the gentleman in the well. The only fact that the gentleman in the well has failed to state and has omitted is the fact that all of the bills and all of the action have been under his great leadership as chairman of the full committee.

It is with deep regret that we note that the gentleman from Tennessee will be leaving us as the chairman of the full committee. We wish him well, and commend him for his great leadership.

Mr. Speaker, I rise in support of H.R. 13567, which I consider to be one of the most important measures offered on behalf of our small business community in recent years.

For the sake of brevity I will limit my remarks to title V of this bill which is designed to greatly expand the Small Business Administration's certificate of competency program. The measure we have before us would authorize the SBA to make all final determinations regarding the responsibility of a small business concern to perform a specific Government contract. The term "responsibility" includes not only all elements of capability, competency, capacity, credit, integrity, perserverance, and tenacity, but also any other factors which procuring activities may determine, now or in the future, relate to the ability of a small business firm to successfully complete a specific Government contract.

Title V also gives the SBA authority to review determinations from a Federal procuring activity that a particular small contractor may be in violation of the "manufacturer or dealer" requirements found in section 35(a) of title 41 U.S.C. of the Walsh-Healey Act. If the SBA believes the procuring activity has made a proper finding, the matter will be referred to the Department of Labor for a final decision. However, if the SBA determines that the small concern is not merely a broker of Federal contracts, but a manufacturer of or dealer in the items called for, it must certify that the small business is eligible pursuant to 41 U.S.C. section 35(a) to receive the subject contract. It is, of course, expected that the SBA will issue rules and regulations to implement this new authority.

Such regulations should adopt a commonsense business approach and reject prevalent theories that in order to qualify as a manufacturer under the Walsh-Healey Act a firm must demonstrate the independent ability to produce every integral part of the finished product. The Department of Labor should cooperate with the SBA in this endeavor and SBA should advise the Department of the peculiar problems facing small business concerns.

Title V does not amend the Walsh-Healey Act in any respect and the SBA must, of course, follow those statutory provisions, the statutory intent and rules and regulations duly promulgated by the Department which appear in the Code of Federal Regulations. Departmental memoranda, notes, or opinions of the Department of Labor cannot, according to the Administrative Procedure Act, provide SBA with prospective rules of general application for its use in this regard.

In summary, title V, if enacted, will result in referrals to SBA is three types of cases where the procuring activity has determined that a small business concern is otherwise qualified to receive a specific Government contract. These three types of cases occur when:

First, there is some element of responsibility of a small business involved; or

Second, the small firm may be ineligible for a contract pursuant to 41 U.S.C. section 35(a); or

Third, an element of responsibility is involved as well as a determination that the small firm may be ineligible pursuant to 41 U.S.C. section 35(a).

Title V further provides that once the SBA issues its certificate of competency it must be deemed conclusive and the subject contract shall be awarded.

I urge all my colleagues to support H.R. 13567.

Mr. RUSSO. Mr. Speaker, will the gentleman yield?

Mr. EVINS of Tennessee. I yield to the gentleman from Illinois.

Mr. RUSSO. Mr. Speaker, I rise in support of H.R. 13567, the Small Business and Business Investments Acts Amendments of 1976.

This measure is the product of some 50 separate bills that were referred to the House Committee on Small Business over a year ago. It is the product of yearlong hearings and many intensive discussions. It merits the support of all of us in this body.

Among its provisions, Mr. Speaker, this legislation increases the authorization for appropriation of the surety bond guarantees fund from $35 million to $71 million. It increases the limitation on the amount of financial assistance which may be outstanding under the business loan and investment fund from $6 billion to $8 billion.

Additionally, this legislation authorizes the Small Business Administration to make regular business loans to small homebuilders attempting to finance residential or commercial construction or rehabilitation for sale. These loans could not be used primarily for land acquisition.

Recognizing the impact Government action has on the small businessman, H.R. 13567 enables the Small Business Administration to offer compliance loans to small business concerns seeking to meet the requirements of Federal law, a State law enacted in conformity with Federal law, or any regulation issued in conformity with a Federal statute, regardless of the date on which the law or regulation was adopted.

I take a small measure of pride in title 8 of this legislation, which provides that if the amount of a proposed small busines set-aside contract is in excess of $1 million, the contracting procurement agency should, to the extent possible, divide the contract so as to reduce the dollar amount of each set-aside contract to under $1 million. This provision should increase the role small business plays in delivering goods and services to the Federal Government. I offered this section of H.R. 13567, and the House Small Business Committee adopted it.

Mr. Speaker, the respected scholar A. D. H. Kaplan once wrote:

> The future of small business in not of concern only to small businessmen. Big business knows that its chances to continue under private auspices rest heavily upon the presence of many virile healthy small businesses bent on retaining the opportunities and liberties that go with private enterprise. For the wage earner in turn the alternative of self employment in small business is an important morale factor. To many an employee it means a sense of independence that might otherwise be lost.

Mr. Speaker, I urge my colleagues to affirm this wisdom and our commitment to a healthy small business community by voting for H.R. 13567.

Mr. McFALL. Mr. Speaker, will the gentleman yield?

Mr. EVINS of Tennessee. I yield to the gentleman from California.

Mr. McFALL. Mr. Speaker, I wish to commend the committee for doing such a great job on this piece of legislation.

Mr. Speaker, the House now has before it a piece of legislation which will enhance the ability of the Small Business Administration to serve the needs of small businessmen in this country.

Before discussing the merits of this bill, I wish to compliment Chairman NEAL SMITH and the members of the Subcommittee on SBA and SBIC legislation for their diligent efforts in reporting an authorization bill which answers the needs

of small business in many vital areas. I personally had the privilege of testifying before the subcommittee on one of the bill's provisions dealing with SBA disaster loan assistance. I am grateful to the subcommittee for the opportunity to have participated in those hearings, and for the privilege of speaking to the bill before us today.

In authorizing funds for the SBA through fiscal 1977, the subcommittee has proposed to increase spending authority for the surety bond guarantee program and to increase the limitation on the business loan and investment fund from $6 billion to $8 billion. At a time when financial experts warn us that increased Government borrowing and a general economic upswing may produce severe shortages of capital, this increased loan and guarantee authority should assist small businesses in meeting their capital needs at reasonable interest rates. The subcommittee, under title II, also proposes granting SBA flexibility in suspending loan repayments if such repayments would threaten the short-term solvency of a small business.

Equally important to the needs of small businesses are the proposals under title IV which address the subject of disaster loans assistance. Section 403 would give the SBA greater authority to make disaster loans available to businesses which may have suffered severe economic injury due to a disaster, but are located in areas which were not designated disaster areas. At present, the SBA Administrator does not possess independent authority to declare a disaster for small businesses, or to provide economic injury assistance to small businesses without prior clearance by the Federal Disaster Assistance Administration. This situation is unresponsive to the needs of small businessmen. First, it places another bureaucratic agency between small businesses and the SBA. Proprietors are unable to make their appeals directly to the SBA Administrator because the authority to make initial disaster recommendations is not in his hands.

Second, small business should not have to qualify for Presidential or Secretary of Agriculture designations in order to receive disaster assistance from SBA, as is now the case. The criteria for Presidential and agricultural designations often do not fit the situation of what constitutes losses for a small business. This section would give the SBA increased flexibility to deal with severe, but localized calamities which harm small businesses.

In conclusion, I would once again like to commend Chairman SMITH for the excellent legislation we have before us today, and thank him for the opportunity to speak on its behalf. I urge my colleagues to grant swift passage of this bill.

Mr. LAFALCE. Mr. Speaker, will the gentleman yield?

Mr. EVINS of Tennessee. I yield to the gentleman from New York.

Mr. LAFALCE. Mr. Speaker, I, too, would like to join in the remarks made by the gentleman from New York. I commend this entire piece of legislation to my colleagues, and would like briefly to address one portion of the bill on which I have worked quite hard. Section 301 of the bill provides that the Small Business Administration may make loans to finance residential or commercial construction or rehabilitation for sale. This portion of the bill, if enacted, would enable small homebuilders to obtain SBA assistance for the first time.

This provision was taken from a bill I introduced when I learned that the SBA precluded the small homebuilder from receiving SBA assistance. The reason for homebuilders' exclusion from SBA programs has been SBA's unwillingness to lend to a businessman engaged in speculation. I found this explanation of SBA's exclusion shallow to say the least. Most homebuilders are financially strong members of their community. If they are bad investors, they do not remain homebuilders for long. I am sure that you know that homebuilders are no more speculators than the average small businessman who seeks to develop and produce a product without a contractual agreement with a buyer before he begins production. SBA would only make loans to small builders in this category; that is, to those who have a firm contract before they commence work on the project at hand. What businessman in this kind of situation needs to turn to the SBA for a loan?

Since the only obstacle to small builders receiving SBA help is not existing law but merely administrative regulations, I introduced legislation last September to remedy the situation. The bill received over 40 cosponsors, and for those of you who signed on, I thank you very much for your support. The fact that slightly less than 10 percent of the entire House membership cosponsored the bill should give some kind of indication as to the need for the change recommended.

The small homebuilder should not be confused with the large land developer. The two have completely different financial needs. The homebuilder is generally thinly capitalized. When he builds some new homes on land he purchases, he knows that those houses can and will be sold. Small homebuilders having successful business track records have clearly demonstrated their credit-worthiness, and most homebuilders have excellent financial records. But in times of high interest rates and other adverse economic conditions, the homebuilding industry is often hit far harder than other segments of the economy, and the individual homebuilder's needs for loan assistance are often greater as well.

The problem that the small homebuilder faces in obtaining conventional loan assistance from a bank is the same faced by other small businessmen his size. Like other small businessmen, the homebuilder needs help from time to time from external sources for the firm's economic well-being. The Small Business Administration was establised to meet the needs of all small businesses in the United States, and the exclusion of homebuilders to date means that the agency's mission has not yet been fulfilled.

The time for Congress to express its intent on this issue is long overdue. Passage of the bill before us now will override the SBA's exclusionary regulations in this area and insure that the small homebuilder, like his other small businessmen counterparts, will be able to obtain SBA loans and assistance. I encourage you to cast your vote in favor of this important bill.

Mr. J. WILLIAN STANTON. Mr. Speaker, I yield such time as he may consume to the distinguished, very capable, honorable gentleman from Massachusetts, the ranking minority member of the committee (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I just want to take a couple of minutes to express my wholehearted support for this bill. It is a good bill—an omnibus bill that includes those provisions which the Legislative Subcommitte has indentified as being in immediate need of action.

Our committee worked hard to reach a unanimous, bipartisan consensus on what should be done with regard to SBA and SBIC legislation before the end of this Congress. We reached that consensus and it is reflected in this bill.

I am not going to get into all of the details, because they are already explained thoroughly in the committee report, which also contains an excellent summary of all of the SBA programs. I do want to mention two items that are of particular interest to me.

First, title I provides new authorizations for the SBA. Part A provides the Agency with the new ceilings it needs to continue operations through fiscal year 1977. Part B provides a new approach for the following 2 fiscal years. It sets forth annual program levels of operation for each of the SBA activities. This is a system I have long advocated. This "line-item" approach tells our committee, the Appropriations Committee, the Congress, and the SBA exactly what SBA is expected to do in each area; and, of equal importance, it lets the small business community know just what it can expect from its agency.

I also want to mention title V, which expands and improves the SBA certificate of competency program. And I want to thank my colleague from California (Mr. CORMAN) and my colleague from New York (Mr. ADDABBO) for their efforts in highlighting this problem and developing a solution. The C of C program saves the Government money, because the applicant is always the low bidder. It also gives the small firm effective protection against arbitrary decisions by procurement officers. It gives him his only protection short of an expensive law suit.

Unfortunately, over the years, procuring agencies have found ways to get around the certificate of competency appeal. Instead of using terms such as "capacity" and "credit" in disqualifying small firms, they use terms like "tenacity" and "perseverance" or they say the small firm is not a regular manufacturer or dealer. They are allowing form to triumph over substance. This new language will end all of that. It will permit an appeal to SBA whenever a small bidder is disqualified for any factors that really involve capacity or credit regardless of what they are called.

Mr. Speaker, I want express my per-

sonal appreciation to Chairman NEAL SMITH of our Legislative Subcommittee, the subcommittee's ranking minority member (Mr. J. WILLIAM STANTON), and all of the members of the Legislative Subcommittee. They have worked hard to produce an excellent product—one free of controversy. I hope the House will give its resounding stamp of approval to this bill.

Mr. Speaker, I want to congratulate our outgoing chairman, the gentleman from Tennessee (Mr. EVINS), who has been a tower of strength of this committee, not only on this bill, but throughout the time he served as chairman of the Select Committee on Small Business, before it became a legislative committee. The gentleman has been a pioneer and champion of the small businessmen of this country, and his retirement is going to leave a large void on that committee. I want to wish him many, many decades of happiness and good health, with his lovely wife, so that he will be able to enjoy the fruits of his labors here in Congress for the small businessman and for his constituency in Tennessee.

Mr. J. WILLIAM STANTON. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in enthusiastic support of the legislation.

Mr. Speaker, I rise in strong support of the Small Business Act amendments, and would like to take this opportunity to express my pleasure in learning late Friday night of the President's signing of our bill, the Small Business Act and Small Business Investment Act, which provides the greatly needed loan assistance to our dairymen to enable them to comply with the requirements of the Federal Water Pollution Control Act regarding the disposal of dairy waste. Our bill once and for all directs the SBA to provide the needed loan funds.

The President's action removes the need for a similar provision contained in title VI of the bill before us at this time and it is my understanding that the duplications will be struck.

The provision was placed in the bill as a backup approach in the event that our original bill ran into a snag. I am delighted that this alternative was not needed. It does, however, clearly point up the real concern and understanding shown by Chairman EVINS, Mr. CONTE, and the chairman of the Subcommittee on SBA and SBIC Legislation (Mr. SMITH) and the ranking minority member (Mr. J. WILLIAM STANTON) and their willingness to approach this problem from every possible angle to insure a prompt resolution of it.

Enactment of our bill marks the end of a long battle to obtain the necessary authority for SBA to assist our dairy farmers.

From the beginning our efforts have been a two-pronged aproach involving both the legislative branch and the administrative agencies. I have met with Chairman NEAL SMITH on more than a dozen occasions and have had direct input from the agencies involved. I have also met several times with our dairymen to obtain firsthand input from those directly affected. Our combined effort has paid off.

The problem began when SBA announced an administrative policy decision not to make loans available to the dairy farmers on the basis that food and fiber producers should not receive assistance. SBA's contention was that existing programs in the Farmers Home Administration could provide the assistance needed and that action by SBA would be duplicative. The Small Business Committee has carefully reviewed the existing FmHA programs and I quote from the committee report:

> Our Committee is of the opinion that none of these programs effectively make available to small businesses engaged in agriculture the amount of money at a low enough interest rate payable over a long enough term to provide a viable source of funds for water pollution control equipment as is provided by SBA under their water pollution control program.

Our first step was to include language in the committee report which accompanied the 1976 State, Justice, Commerce, Judiciary appropriations bill which stated that it was the intent of the Congress that the Small Business Act be interpreted to permit the granting of loans to our dairymen. SBA continued to arbitrarily discriminate against our dairy ranchers and it became apparent that direct legislation was needed. I, subsequently, introduced a bill simply amending the act to include diaries by defining small businesses as including "establishments primarily engaged in production of cow's milk."

Chairman SMITH responded by calling for hearings on my bill and others similar to it. The outcome of these hearings was the drafting of the bill just signed by the President.

I would again like to express my deep appreciation for the cooperation and consideration that Mr. SMITH has given to us in dealing with this very serious problem. He has gone the extra mile to help me and my constituents. We shall be eternally grateful.

Mr. J. WILLIAM STANTON. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. LOTT).

Mr. LOTT. Mr. Speaker, I rise in support of H.R. 13567, the Small Business Act Amendments of 1976. This legislation is designed to correct many of the problems which small business concerns presently are experiencing or could experience in the future with respect to their transactions with the Small Business Administration. In doing so, the bill increases certain SBA direct loan and loan guarantee program authority, allows SBA to extend its loan authority to small businesses ruled ineligible previously, provides for a moratorium in SBA loan repayments for up to 5 years in specific situations, and improves the SBA disaster loan program.

I am pleased particularly that H.R. 13567 includes provisions extending the loan authority of the Small Business Administration to additional small business firms. Under the bill, SBA is authorized to make regular business loans available to small homebuilders to finance residential or commercial construction or rehabilitation for sale. The legislation also authorizes SBA to provide assistance to small business concerns engaged in the production of food and fiber, raising of livestock, aquaculture, and all other farming and agricultural related industries.

Finally, Mr. Speaker, this bill proposes to amend section 7(b)(5) of the Small Business Act by authorizing loans to facilitate compliance with Federal laws which were enacted prior to enactment of this subsection. Currently, SBA is interpreting their authority to provide compliance loans only to apply to laws enacted subsequent to this loan program. As a consequence, small businesses, such as nursing homes, have not been able to secure SBA loans for the purpose of complying with federally mandated standards in the law. Approval of this legislation will correct the unfortunate situation which exists today.

I am grateful to the Small Business Committee for bringing this bill to the House. It makes many needed improvements in the existing Small Business Act, and I want to register my full support for its passage.

Mr. J. WILLIAM STANTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to confirm what has already been expressed by the chairman of our Legislative Subcommittee (Mr. SMITH of Iowa).

This bill, H.R. 13567, was afforded extensive hearings and deliberation at the subcommittee and full committee levels. It enjoys the unanimous bipartisan support of our committee. It represents what will probably be our final effort of this Congress to strengthen the role of the Small Business Administration and update the Agency's authorizing legislation.

In this bill we have increased the limitations and sublimitations that currently exist for the SBA financial assistance programs. These increased limitations will carry the SBA through fiscal year 1977. For fiscal years 1978 and 1979, the bill authorizes new program levels at which SBA may operate its major programs.

I would like to emphasize that the new program levels do not represent "back door" spending. They are merely ceilings on the future annual level of activities. They provide a needed basis for advance budgetary planning by both the Congress and the executive branch.

Mr. Speaker, this bill and the act signed by the President last Friday (S. 2498) represent our committee's efforts to act responsively and responsibly on more than 50 bills referred to us, a variety of complaints and suggestions received from individual small businesses or their associations, and several problems our committee inherited from its predecessor.

We have added some new authorities, we have increased others. We have hopefully given the small business community an effective and lasting voice in the highest levels of Government. And we have done this without any massive raids on the Treasury or the imposition of new administrative and paperwork burdens.

In closing, I would like to express my

thanks to the chairman of the full committee (Mr. EVINS), the chairman of the Legislative Subcommittee (Mr. SMITH of Iowa), our ranking minority member (Mr. CONTE), and all of the members of the Small Business Committee. I also want to thank all of the Members of this body for their continuing cooperation and support.

Mr. SMITH of Iowa. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I want to congratulate the gentleman from Iowa (Mr. SMITH) and also my colleague, the gentleman from New York (Mr. ADDABBO), for the fine job they have done on this legislation.

Mr. Speaker, I rise in support of H.R. 13567, Small Business Act Amendments of 1976. As I said in an earlier statement on the floor, the importance of small business to the American economy cannot be underestimated. The more than 13 million small businesses in the United States—97 percent of all U.S. businesses—account for more than one-half of all private sector employment, 43 percent of business output and one-third of the gross national product. Small business is the heart of the American free enterprise system.

Being small and subject to increasing pressure from conglomerates, it was inevitable that small business suffer inordinately during the recent period of inflation and recession. The economic disaster of the past several years has resulted in many small businesses going under and many more hanging on grimly, facing ever-tighter credit problems. For example, the Administrative Office of the U.S. Courts reported that small business failures in 1974 and 1975 increased 72 percent over 1973. Small business costs have also gone up. Wholesale prices charged by producers to distributors rose 20.9 percent while the Consumer Price Index was rising only 12.2 percent.

Prices of construction materials—a field where small business predominates—rose 21.2 percent in 1974. One association of 600 smaller manufacturers reported a 26-percent increase in the cost of industrial materials its members required. In my own district electricity costs have had inordinately severe effects on small business. Con Ed's rates have gone up 55 percent in the last 5 years, while their total revenues increased 102 percent. Many small businessmen I meet tell me their Con Ed bills now exceed their business rent or mortgage payments.

Partial solutions to these problems include both an infusion of new capital into small businesses and additional legislation to expand SBA authority.

With respect to the first, I am pleased to note that the Appropriations Committee has included an additional $150 million for direct and immediate participation small business loans. Only 5 weeks ago an amendment Representatives HOLTZMAN, CONYERS, and I offered to the first budget resolution included $200 million for the same purpose, among other items, to aid small business and provide economic stimulus. I am gratified to see the Appropriations Committee respond to the desperate state of small business with these additional funds.

With respect to expanded SBA authority, the bill before us today contains several important provisions. First, in a long overdue action the bill makes clear that SBA loan authority includes small homebuilders. This provision is similar to legislation I sponsored with a number of other Members some time ago. The Small Business Administration has up until now been reluctant to lend to homebuilders because of the "speculative" nature of their activity. The fact that most businesses, particularly small enterprises, are speculative does not seem to bother the SBA bureaucracy. Residential construction is a field dominated by small businesses, and one where unemployment is exceptionally high. HUD programs have been oriented primarily toward the housing consumer rather than the builder. For SBA to ignore this important and hard-hit sector of the economy is unconscionable, a situation this bill will correct.

Second, the bill includes a provision raising the ceiling on guaranteed loans from $350,000 to $500,000, also legislation which I sponsored earlier. Though also an overdue change, it is unfortunate that the increase is not applied to direct and immediate participation loans as well.

Third, another provision of the bill I have supported in the past is section 403 which authorizes the SBA Administrator to determine if a disaster has occurred for purposes of making SBA disaster relief loans. It also permits State Governors to certify disasters to SBA for loan purposes if small businesses have suffered economic injury as a result of a disaster. This should help to break through redtape surrounding SBA disaster loans.

One final provision of the bill offers considerable promise for the future—the authorization for a Chief Counsel for Advocacy. The functions of the Advocacy Counsel will be not only to serve as a focus for suggestions and complaints about the Small Business Administration but also to help promote policies in all Government agencies which will help small business.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield for a brief question?

Mr. SMITH of Iowa. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Speaker, the gentleman from Iowa and the members of the committee will recall that in 1974 we, I believe, appropriated $400 million for direct loan programs. Somehow or other that money was never spent.

Again last year we tried to use the same approach, and somehow or other the agency did not spend the money for direct loans.

As the Members well know, the prime interest rate has just gone up, and the effects of that are going to filter down and make bank participation loans even tougher.

What I am especially asking the gentleman from Iowa (Mr. SMITH) is this: What guarantees do we have that the agency will spend the $400 million in direct loans, which is what the Congress wants it to do?

Mr. SMITH of Iowa. Mr. Speaker, I do not think anyone can positively guarantee they will loan the money. However, due to the work of the gentleman from Maryland (Mr. MITCHELL) and other Members, I believe the Agency has been educated a little bit in the last couple of years, and I believe they are now more willing to spend the money than they were previously. Perhaps I should say they are more willing to loan the money; that is probably a better term.

We are recommending a substantial increase in appropriations in the fiscal year 1977 appropriations bill that is coming up, so they will have funding to do it, and through the course of the hearings on this bill we have been stressing the need for this legislation and the need for direct loans. I believe that the agency will now be more willing to loan the money than they were in previous periods.

Mr. MITCHELL of Maryland. Mr. Speaker, I thank the gentleman.

Will the gentleman yield further on that same question?

Mr. SMITH of Iowa. Yes, I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Speaker, will the new rescission and deferral process be of any help in guaranteeing us that this money will be spent for direct loans?

Mr. SMITH of Iowa. That is of some help, and it will be of help if it is interpreted the way I interpret it. They can delay by having a rescission and a deferral and Congress being given time to act upon it; but after the rescission or deferral is rejected, they are then supposed to use the money to the extent they have reasonably good applications demanding the money. We do have from the administrators of the agency statements that indicate they do have plenty of applications for the money.

Mr. MITCHELL of Maryland. Mr. Speaker, I thank the gentleman for his answers and for yielding to me.

Mr. Speaker, I rise in support of passage of H.R. 13567, the Small Business Act Amendments of 1976.

I am proud to urge my colleagues to overwhelmingly adopt H.R. 13567. This legislation contains numerous provisions which are key to strengthening the role in our economy of small business, in general, and several provisions which are crucial to the survival of minority business, in particular.

Minority entrepreneurs are eager and willing to make the necessary sacrifices to enter and remain in the American economic mainstream. Yet, usually due to a paucity of resources and problems of insensitivity—which in many cases have become institutionalized in both the public and private sectors—a large portion of minority businesses exist only from day to day. With too many minority businesses, economic stability is often elu-

sive and economic parity is frequently nonexistent.

Business failures are never a plus, not for the business, not for the community, not for the State, not for the Nation. Every time a business, regardless how small, has to reduce its output or close its doors, unemployment is increased and human resource programs at every level of Government are greater strained.

Therefore, I am most pleased that H.R. 13567 contains provisions aimed at providing certain businesses with a final chance for survival, after all else has failed. This bill allows the Small Business Administration to suspend loan repayments for a period of up to 5 years, providing, most importantly, that without the moratorium the small business concern would become or remain insolvent and that with the moratorium the small business would become or remain a viable small business entity. This SBA authority is designed only for those small businesses in the most desperate of circumstances.

Believe me, the strong signs of economic recovery that administration economists continually bring to our attention at the national level have not yet, and may well never, "trickle down" to some segments of our economic community. Until such time as those alleged trickles become a downpour, this Congress has the obligation to fend off the destruction that comes with an economic drought which is still very real to many small businesses.

With the loan moratorium provisions and others just as critical, H.R. 13567 reinforces that congressional obligation. This bill certainly deserves the support of each one of us.

I submit portions of my testimony before the Subcommittee on SBA and SBIC legislation, in which I argued for this moratorium on repayment of loans.

In April of 1975 I introduced H.R. 6463 to amend the Small Business Act to impose a moratorium on the repayment of principle and interest on certain loans made by the Small Business Administration for a period of 2 years or until such time as the President determines that the United States is no longer in a period of economic recession.

It is important to note that the moratorium would apply to all SBA loans made after January 1, 1970. However, let me quickly add that H.R. 6463 would not grant SBA the authority to impose a "blanket" moratorium. Because, most importantly, the bill is designed only for those small businesses in the most desperate of circumstances; those businesses which would clearly become insolvent without the assumpion or suspension of their loan obligation by SBA

At the time that H.R. 6463 was originally introduced, a survey had been recently conducted to determine the problems facing the small business community, which used as a sample 4,000 small businesses located exclusively in the New York area. When asked to name the major problem threatening the solvency of their business, 22.7 percent responded "the poor state of the economy"; 20.7 percent cited "money, interest, and credit"; and 20.4 percent stated "increasing or unstable costs." Or, a total of 63.8 percent of the largest small business community in the Nation saw as the most insurmountable obstacle the recession and its related side effects.

Recently, the administration has begun issuing statements and statistics which suggest that the national economy is on the upswing, inflation is lessening, unemployment is creeping down, the recession is weakening, things are getting better.

Therefore, the legitimate question to be raised by my colleagues becomes, "Is H.R. 6463 necessary any longer?"

As small businessman after small businessman from across the country, most of whom are minority entrepreneurs, come into my office almost daily, or write, or call; the answer comes back a resounding "yes, an instrument such as H.R. 6463 is still very much needed."

While qualified small businessmen from the larger community would certainly reap the benefits of this legislation, the bill is no less than a necessary point of recourse for the pure survival of the minority business sector.

I am sure that most of my colleagues woull agree that minority businessmen just got into the national economic system. Therefore, when the national system is hurting, they are hurting more than anybody else. High interest rates, inflation, the disappearance of raw materials—all this especially hits hard in the minority business community.

The need for H.R. 6463 is still there.

Of prime importance is the fact that minority businesses operate in communities that have very little money to spend. Minority persons are the major consumers of goods and services produced by minority businesses. In high unemployment situations minorities are laid off in disproportionate numbers. Therefore, an increase in the failure rate of small minority businesses can be expected. Therefore, the need for the relief which would be provided by H.R. 6463 is still there.

Mr. Chairman, the tie-in between the continuing need for the moratorium and the minority unemployment situation cannot be overemphasized.

The administration and the Congress have identified the economic problem facing our Nation as being comprised of three major elements, that is, inflation, recession, and unemployment. The administration, and to some extent supported by the Congress, has ranked those elements as: inflation—priority No. 1, recession—priority No. 2, and unemployment—priority No. 3, dead last. Consequently, national resources to fight the economic problem are allocated in a like fashion.

Tragically, segments of minority groups, particularly blacks, have remained in a recession/depression status in terms of employment since "the great depression," and the national economic policy that we are currently following will surely keep them there.

The current recession has imposed a severe unemployment burden on all Americans, but as in the past, it has affected nonwhites more severely than whites. While the average national unemployment rate was 8.4 percent in the third quarter of 1975, unemployment for nonwhite adult males was 11.5 percent; for nonwhite adult females, 11.8 percent; and for nonwhite teenagers, 36 percent.

Moreover, discouraged workers—those who leave the labor force because they believe jobs are unavailable, and who are therefore not counted among the unemployed—are disproportionately black. Thus, while the unemployment rates for whites and nonwhites in the fall of 1975 were 7.7 and 13.8 percent respectively—a gap of 6.1 percentage points—the percentages of unemployed adjusted to include discouraged workers were 8.7 and 16.4 percent—a gap of 7.7 percentage points. These figures exclude the effects of underemployment due to involuntary part-time work and employment below a worker's skill level.

The figures, which time will not permit me to cite, are even more frightening when one looks at teenage unemployment.

This adds up to reduced buying power in the minority community and, therefore, as I have repeatedly said, increased vulnerability of minority businesses. This all adds up to the point that in some segments of our country "things are not getting better," and, in fact, may be getting worse.

Mr. SMITH of Iowa. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri (Mr. HUNGATE).

Mr. HUNGATE. Mr. Speaker, I rise in support of this legislation, and I also wish to join in the commendations of the gentleman from Tennessee (Mr. EVINS), the chairman of the committee. He is possibly the greatest thing to come out of Tennessee since Jack Daniels.

The ranking minority member of the committee, the gentleman from Massachusetts (Mr. CONTE), has worked in splendid harmony with our retiring chairman, the gentleman from Tennessee (Mr. EVINS), and I believe the public has benefited over many years by the good work of this committee.

We are breaking new ground under the leadership of the chairman of the subcommittee, the gentleman from Iowa (Mr. SMITH), and the ranking minority member, the gentleman from Ohio (Mr. J. WILLIAM STANTON). This is the first time they have had legislative authority, and I commend both those gentleman for their past efforts in protecting the House position insofar as possible in the conference and bringing us legislation which should be useful to small business.

Mr. Speaker, again I join other Members in expressing regret at the retirement of the gentleman from Tennessee (Mr. EVINS), our chairman, although I have appreciation for his reasons. His House service has been of great value to the public.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to join the other Members in paying tribute to the chairman of the full committee, the gentleman from Tennessee (Mr. EVINS).

He has been a model chairman. He has

supported and encouraged the subcommittee at every juncture to take the initiative on every bill that came before us so as to develop it into appropriate legislation and to get it to the floor.

I want to join the others in paying tribute to him and also I pay tribute to the gentleman from Missouri (Mr. HUNGATE), who has also announced his retirement. He, too, has been a very helpful member on this subcommittee. He has been one of those who showed up at every hearing that he possibly could, making a valuable contribution each time.

Mr. CORMAN. Mr. Speaker, I rise in support of H.R. 13567.

My comments are directed to title V of this bill.

The Small Business Administration has the major obligation and responsibility for the well being of the small business community throughout the United States. The measure before us will provide the Small Business Administration with greatly needed additional authority to fulfill their obligation by authorizing the SBA to make all final determinations regarding all elements of responsibility of any small business to perform a specific contract.

This bill will also provide the Small Business Administration with the authority to determine whether or not a small contractor meets the "manufacturer or dealer" requirements found in section 35(a) of title 41 U.S.C. of the Walsh-Healey Act.

If the SBA finds that the procuring activity made a proper finding in their determination that a particular small contractor, for a specific contract, is in violation of this section of the Walsh-Healey Act, the matter will be referred to the Department of Labor for a final decision. However, if the SBA finds that a small contractor is a manufacturer of or a dealer in the items called for, the SBA shall certify that the small business is eligible to receive the subject contract.

Title V provides that, if SBA issues a certificate of competency to a small contractor, that contractor has met all necessary requirements for a specific contract and the procuring activity must let the contract to that contractor.

Mr. LEHMAN. Mr. Speaker, I rise in strong support of H.R. 13567, the amendments to the Small Business Act and the Small Business Investment Act of 1958.

The Committee on Small Business is to be commended for its work on this important legislation, which addresses so many of the problems small businessmen face. However, I would like to address myself now to just one provision, section 301.

Late last year, I introduced a bill, H.R. 11037, to permit the Small Business Administration to make loans to homebuilders. Section 301 has the same effect, allowing financial assistance for residential or commercial construction or rehabilitation for sale.

The SBA currently considers homebuilders to be speculators, and therefore precluded from receiving assistance. The only exceptions seem to be projects for which there are assured customers. Other industries, by contrast, have no such requirement for eligibility, although products are manufactured and sold at wholesale or retail with no assurance that anyone will buy either a product line or an individual item.

Most homebuilders are small businesses; the South Florida Builders' Association estimates that 90 percent of Dade County builders put up less than 25 houses each per year. Moreover, precisely because of the modest size of their operations, many small homebuilders have problems obtaining credit or bank loans. The Dade County Building Department, although its licensing procedures do not yield hard figures, has noted a trend of increasing closings of small homebuilding firms and increasing IRS liens on firms unable to meet their tax obligations.

Construction is also a major area of unemployment, particularly in Dade County. While the county's April unemployment figure was 11.5 percent, well over the national average, it is estimated that over 50 percent of construction workers are idle.

No Federal department or agency provides direct financial assistance to homebuilders, as SBA could, given the legislative mandate of section 301. Loans to small builders would do a great deal to provide jobs for idle construction workers and keep small homebuilding firms alive.

Mr. Speaker, H.R. 13567 is good and vital legislation. Although I have discussed only one six-line section of it, I would urge my colleagues to support the entire package of provisions designed to assist small businessmen, and to vote for the bill's passage.

The SPEAKER pro tempore (Mr. MCFALL). The question is on the motion offered by the gentleman from Iowa (Mr. SMITH) that the House suspend the rules and pass the bill (H.R. 13567), as amended.

The question was taken.

Mr. CONTE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

AUTHORIZATION FOR CONTU APPROPRIATIONS

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11877) to extend the authorization of appropriations for the National Commission on New Technological Uses of Copyrighted Works to be coextensive with the life of such Commission.

The Clerk read as follows:

H.R. 11877

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 205 of the Act entitled "An Act to amend title 17 of the United States Code to remove the expiration date for a limited copyright in sound recordings, to increase the criminal penalties for piracy and counterfeiting of sound recordings, to extend the duration of copyright protection in certain cases, to establish a National Commission on New Technological Uses of Copyrighted Works, and for other purposes", is amended by striking out "June 30, 1976" and inserting in lieu thereof the following: "and including the day on which the Commission terminates".

The SPEAKER pro tempore. Is a second demanded?

Mr. RAILSBACK. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. RAILSBACK) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Wisconsin (Mr. KASTENMEIER).

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the legislation now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I can consume.

Mr. Speaker, the National Commission on New Technological Uses of Copyrighted Works, known as CONTU, was created by Congress in 1974. The Commission is composed of 13 voting members including the Librarian of Congress. The other 12 members, who are chosen by the President, are evenly divided between the creators, the users of copyrighted works, and the general public. The Register of Copyrights is an exofficio nonvoting member.

The purpose of the Commission is to study and make recommendations to the Congress concerning the use of copyrighted works: First, in automatic systems capable of storing, processing, retrieving, and transferring information, and by various forms of machine reproduction, not including reproduction by or at the request of instructors for use in face-to-face teaching activities, and, second, in the creation of new works by the application or intervention of such automatic systems or machine reproduction.

The Commission must submit reports to the President and the Congress including a final report which is due by December 31, 1977. The Commission will terminate within 60 days after the final report, or by March 1, 1978.

H.R. 11877, which you are considering today, would extend the authorization for appropriations for that Commission, so that it can complete its work. Public Law 93-573, enacted December 31, 1974, limited the authorization for appropriations to June 30, 1976, expressing the congressional intent that the Commission return to Congress to request the balance of the authorization. On February 23, 1976, the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the Committee on the Judiciary held a hearing at which the executive director of CONTU testified. The work of the Commission is progressing, and a preliminary report is to be filed by October 8, 1976.

The projected costs of CONTU are ap-

proximately one-half of what was originally anticipated, and will be approximately $1,267,000 through the expiration date of March 1, 1978.

The other body has considered identical legislation, and passed S. 3187 without amendment on May 11, 1976.

I ask your support of H.R. 11877, which will extend the authorization for appropriations for CONTU through the life of that Commission.

Mr. RAILSBACK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 11877, a bill to extend the authorization for appropriations for the National Commission on New Technological Uses of Copyrighted Works—hereinafter referred to as "CONTU". Although the present act—Public Law 93-573—requires CONTU to conduct studies and prepare reports which shall be due by December 31, 1977—3 years after the enactment—and allows a 60-day winddown period before the Commission expires—no later than March 1, 1978—the authorization for appropriations is presently extended only through September 30, 1976. H.R. 11877 would extend the authorization for appropriations until "and including the day on which the Commission terminates."

The subjects which must be evaluated by the Commission are: first, the reproduction and use of copyrighted works of authorization in conjunction with automatic systems capable of storing, processing, feeding, transferring information, and also by various forms of machine reproduction; and second, the creation of new works by the application or intervention of such automatic systems or machine reproduction.

The cost of CONTU is actually less than originally expected. The committee report in 1974 had projected a total cost of $2,461,400 over 3 years, while the February 19, 1976, letter of the executive director, Arthur J. Levine, projects a total cost of $1,267,000, a savings of $1,194,400.

The Subcommittee on Courts, Civil Liberties and the Administration of Justice held 1 day of public hearings on this bill and it was reported unanimously by the subcommittee and by the full Judiciary Committee. An identical bill passed the Senate, May 11, 1976—S. 3187.

Mr. Speaker, I am unaware of any opposition to this legislation and urge my colleagues to support its passage.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time.

Mr. RAILSBACK. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER) that the House suspend the rules and pass the bill H.R. 11877.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 3187) to extend the authorization of appropriations for the National Commission on New Technological Uses of Copyrighted Works to be co-extensive with the life of such Commission, a similar bill to the bill just passed by the House, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 205 of the Act entitled "An Act to amend title 17 of the United States Code to remove the expiration date for a limited copyright in sound recordings, to increase the criminal penalties for piracy and counterfeiting of sound recordings, to extend the duration of copyright protection in certain cases, to establish a National Commission on New Technological Uses of Copyrighted Works, and for other purposes", is amended by striking out "June 30, 1976" and inserting in lieu thereof the following: "and including the day on which the Commission terminates".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 11877) was laid on the table.

AMENDING THE INDOCHINA MIGRATION AND REFUGEE ASSISTANCE ACT OF 1975

Mr. EILBERG. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2760) to amend the Indochina Migration and Refugee Assistance Act of 1975 to provide for the inclusion of refugees from Laos.

The Clerk read as follows:

S. 2760

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Indochina Migration and Refugee Assistance Act of 1975 (Public Law 94-23; 22 U.S.C. 2601), is amended as follows:

(1) In section 2, strike out "Cambodia or Vietnam" and insert in lieu thereof "Cambodia, Vietnam, or Laos".

(2) In section 3, strike out "Cambodia or Vietnam" and insert in lieu thereof "Cambodia, Vietnam, or Laos".

(3) In section 4(b), strike out "Cambodia and South Vietnam" and insert in lieu thereof "Cambodia, South Vietnam, and Laos".

(4) In section 4(b)(3), strike out "South Vietnam and Cambodia" and insert in lieu thereof "South Vietnam, Cambodia, and Laos".

The SPEAKER pro tempore. Is a second demanded?

Mr. FISH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. EILBERG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a little over 1 year ago this body approved—and the President signed into law—the Indochina Migration and Refugee Assistance Act of 1975. That law, which was enacted in the wake of the collapse of the Governments of Cambodia and South Vietnam, enabled the United States to assist refugees who fled from these two countries.

Specifically, the 1975 act authorized $455 million for the movement, temporary care, and resettlement of Vietnamese and Cambodian refugees.

Since the 1975 legislation was enacted, the Coalition Government of Laos has also fallen and several thousand natives of Laos fled their country—and most of them are now residing in Thailand.

Under the authority of the Immigration and Nationality Act—specifically the parole power set forth in section 212(d)(5) of that act—the Attorney General has agreed to parole approximately 8,000 Laotian refugees into the United States, and as of Friday of last week 2,700 have already been admitted.

Under current procedures, a sponsor is located for each of the Laotian refugees prior to his entry into the United States in order to obviate reestablishment of reception centers in this country. Some problems have developed, however, because Laotian refugees are not included within the scope of the Indochina Migration and Refugee Assistance Act. For examble, under the 1975 act, the Federal Government is authorized to reimburse States for the cost of health care, public assistance, and educational benefits provided to Vietnamese and Cambodian refugees.

Since this coverage does not extend to Laotian refugees, some persons are reluctant to sponsor such refugees fearing that they may be held accountable for any and all expenses relating to the support and care of these refugees.

Consequently, S. 2760 is simply designed to make Lao refugees eligible for the same types of assistance currently being provided to Vietnamese and Cambodian refugees.

My Subcommittee on Immigration, Citizenship, and International Law held 1 day of hearings to consider this legislation, and it was later overwhelmingly approved by both the subcommitte and the full Judiciary Committee.

S. 2670 is a noncontroversial bill, and it is strongly supported by the administration. In addition, we have been assured by witnesses from the executive branch that enactment of this legislation will not require any increase in the authorization limit established by the 1975 act.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join the subcommittee chairman, Mr. EILBERG, in support of the bill, S. 2760, to make Laotion refugees eligible for assistance under the Indochina Migration and Refugee Assistance Act, Public Law 94-23.

In May 1975, Congress passed the Indochina Migration and Refugee Assistance Act. Temporary in time, that bill was limited in its coverage to aid only refugees from Vietnam and Cambodia. Shortly thereafter, a new government took over Laos and since then, many Laotians closely associated with the U.S. effort in that area have fled their country. Many of these refugees are currently in camps in Thailand.

We recognize that the Laotian refugees, as well as those from Vietnam and Cambodia, are the result of a tragic war. We should assume our share of responsibility of assisting in their resettlement as France and Australia are doing. In that regard, in July 1975, the Attorney General authorized the parole of 3,400 Laotian refugees into this country of whom approximately 2,700 are already here. On May 6, 1976, a further parole of 11,000 Indochinese refugees was authorized, of whom approximately 4,700 are Laotians.

Mr. Speaker, who are these additional refugees? They must qualify within one of the following categories:

First. Close relatives of U.S. citizens, permanent resident aliens, and previously paroled refugees;

Second. Former employees of the U.S. missions; and

Third. High-risk persons with close association with the U.S. effort in Southeast Asia.

Mr. Speaker, the refugees presently in Thailand are being handled differently from refugees who came here during the resettlement program last year. Through the auspices of voluntary agencies, these refugees travel directly from the refugee camps in Thailand to their sponsors in this country. This eliminates the need to reestablish stateside refugee camps such as Camp Pendleton, as were needed during last year's successful resettlement program.

However, it is difficult to obtain willing sponsors for Laotian refugees since they currently are ineligible for the benefits received by refugees from Cambodia and Vietnam. Under the 1975 act, the Federal Government provides financial assistance to the States, such as health care, language and vocational training, and social services. S. 2760 rectifies this. The bill we have reported would allow Laotian refugees to qualify for that assistance just as the other refugees we admitted from Indochina presently qualify.

We understand that funds already authorized should be sufficient to support additional refugees and that HEW will be able to administer the additional responsibility within the administration's fiscal year 1977 budget proposals. As a result of the fine management of the resettlement program by the interagency task force headed by Mrs. Julia Taft the transportation phase of the program was completed with a surplus.

Therefore, this bill will merely rectify the present inequality of denying one group of Indochinese refugees benefits we have already authorized for other Indochinese refugees. The bill passed the Senate by unanimous consent and was reported by the House Judiciary Committee by voice vote. The administration strongly supports enactment of this bill, and I urge the support of the House for the motion to suspend the rules and pass S. 2760.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. REGULA), the sponsor of this legislation.

Mr. REGULA. Mr. Speaker, I rise in support of S. 2760, a companion bill to my earlier bill, H.R. 11473, which will amend the Indochina Migration and Refugee Assistance Act to provide for the inclusion of Laotian refugees.

Last spring this Congress moved expeditiously to insure that the refugees from Vietnam and Cambodia received support in resettling in the United States. When the Migration and Refugee Assistance Act was passed, the political situation in Laos was as yet unclear. Many hoped that the coalition government in Laos would survive; to include the Lao in emergency refugee legislation seemed an unnecessary affront to the government in Vientiane. Now, however, the Laotian Government has emerged as strongly pro-Communist; necessitating that a number of pro-Western Lao, many of whom worked for the U.S. mission during the Indochina war, flee their homeland.

The Attorney General, after consulting with the Congress, has authorized parole authority for 8,100 of these Laotian refugees. Without the benefits and assistance which S. 2760 would give them, these Lao will have a hard time in resettling and finding sponsors; those families who do sponsor Laotian refugees will have to shoulder an unnecessarily large burden in return for their generosity.

Passage of S. 2760 will involve the expenditure of no new moneys. The Congress appropriated $455 million under Public Law 94–23 of which $53 million remains, according to HEW. The funds to aid the Laotians would be drawn from this sum.

This country exhibited a great outpouring and aiding and enthusiasm in resettling and aiding a large number of refugees from Indochina. In light of this superb record it would be tragic to overlook one small but richly deserving group.

Mr. FISH. Mr. Speaker, I have no further requests for time.

Mr. EILBERG. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. EILBERG) that the House suspend the rules and pass the Senate bill, S. 2760.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2760, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

RULES OF CRIMINAL PROCEDURE EFFECTIVE DATES

Mr. HUNGATE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13899) to delay the effective date of certain proposed amendments to the Federal Rules of Criminal Procedure and certain other rules promulgated by the U.S. Supreme Court.

The Clerk read as follows:

H.R. 13899

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of sections 3771 and 3772 of title 18 of the United States Code, and section 2072 of title 28 of the United States Code, the rules and forms governing section 2254 cases in the United States district courts, the rules and forms governing section 2255 proceedings in the United States district courts, and the amendments to the Rules of Criminal Procedure for the United States district courts which are embraced by the orders entered by the United States Supreme Court on April 26, 1976, and which were transmitted to the Congress on or about April 26, 1976, shall not take effect until August 1, 1977, or until and to the extent approved by Act of Congress, whichever is earlier.

The SPEAKER pro tempore. Is a second demanded?

Mr. WIGGINS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. HUNGATE) and the gentleman from California (Mr. WIGGINS) each will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Missouri (Mr. HUNGATE).

Mr. HUNGATE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, statutes known as the Rules Enabling Acts empower the Supreme Court to promulgate rules of "pleading, practice, and procedure." Such rules must be promulgated and transmitted to the Congress before May 1. They cannot take effect until 90 days after their transmittal to Congress. The purpose for this 90-day delay is to enable Congress to study any rules transmitted to it and to pass whatever legislation might be appropriate. After the 90 days go by, the rules promulgated and transmitted by the Supreme Court become effective and nullify any law that is in conflict with them.

Acting pursuant to the authority of the Rules Enabling Act, the Supreme Court promulgated and transmitted to Congress on April 26, 1976, certain amendments to the Federal Rules of Criminal Procedure as well as rules of procedure to govern cases and proceedings under sections 2254 and 2255 of title 18, United States Code.

The amendments to the Federal Rules of Criminal Procedure affect procedure concerning grand juries, peremptory challenges to jurors, the issuance of search warrants, and removal of a criminal case from a State to a Federal court.

The rules of procedure governing cases and proceedings under sections 2254 and 2255 of title 18, United States Code, are brand new. Section 2254 provides that someone held in custody pursuant to the order of a State court may apply for a writ of habeas corpus "only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States." Section 2255 provides

that someone in custody pursuant to the order of a Federal court may, by motion, seek release "upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack."

These amendments and new rules, absent congressional action to the contrary, will take effect on August 1, 1976. The purpose of H.R. 13899 is to postpone the effective date for 1 year, to August 1, 1977, in order to give Congress adequate time to review and study what the Supreme Court has transmitted to us.

I will note at the outset that although the Supreme Court transmitted its proposals to us last April 26, so far no official print of the Court's proposals has become available. I am told that the proposals are in galley proof form, but yet no House document containing the official version has been published. This, of course, delays our study and review of them, in part because the unofficial versions available to us do not contain the explanatory notes and comments prepared by the Judicial Conference's Advisory Committee on Criminal Rules. This committee is charged with the responsibility for preparing the initial draft of the rules, and in the past its comments have been most helpful.

H.R. 13899 is very similar to legislation enacted during the 93d Congress with respect to the Federal Rules of Evidence and to certain amendments to the Federal Rules of Criminal Procedure that were promulgated by the Supreme Court and transmitted to Congress on April 22, 1974. Public Law 93–12 postponed indefinitely the effective date of the Federal Rules of Evidence. I would point out that the indefinite postponement did not mean killing the Federal Rules of Evidence. The 93d Congress also enacted legislation establishing a Federal code of evidence, Public Law 93–595. The April 22, 1974, amendments to the Federal Rules of Criminal Procedure were postponed for a year by Public Law 93–361, exactly what H.R. 13899 proposes to do with the recently promulgated amendments. Again, I would point out that postponement was not a way for Congress to avoid dealing with the issues. Congress acted during the additional year it gave itself to approve some of the Supreme Court's amendments in their entirety, to disapprove some of them in toto, and to approve some of them with amendments—Public Law 94–64.

The Rules Enabling Acts, the statutory authority for the Supreme Court's action, contemplate that the Congress will review what the Supreme Court transmits to it. This legislation is designed to give Congress a realistic amount of time to study the Court's transmittals and to carry out its review in a thorough and conscientious manner. It has the bipartisan sponsorship of every member of the Subcommittee on Criminal Justice and comes before the House with the unanimous recommendation of the Committee on the Judiciary. I ask for your support of it.

Mr. WIGGINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also rise in support of H.R. 13899.

This is a bipartisan bill the sole effect of which is to stay for a maximum of 1 year certain amendments to the Federal Rules of Criminal Procedure recently promulgated by the Supreme Court.

The Supreme Court is permitted by statute—18 U.S.C. 3771–2, 28 U.S.C. 2027—to prescribe rules of criminal procedure, pleading, and practice for Federal district and appellate courts. Rules promulgated pursuant thereto nullify conflicting laws.

On April 26 of this year, the Supreme Court promulgated amendments effected by H.R. 13899. The amendments are scheduled to take effect on August 1 of this year. H.R. 13899 merely postpones that date 1 year to enable Congress to give these amendments the scrutiny they merit.

The amendments affect procedure concerning grand juries, verdicts by a jury of less than 12, peremptory challenges to jurors, issuance of search warrants, and removal of a criminal case from State to Federal court. The amendments also contain rules and forms for Federal habeas corpus and writ of error proceedings.

H.R. 13899 is similar to congressional treatment of amendments promulgated by the Supreme Court April 22, 1974. In that instance, Public Law 93–361 likewise provided a 1-year postponement and offered Congress a realistic opportunity to study the amendments.

Mr. HUNGATE. Mr. Speaker, I have no further requests for time.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the bill (H.R. 13899) under consideration.

The SPEAKER pro tempore (Mr. McFALL). Is there objection to the request of the gentleman from Missouri?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. HUNGATE) that the House suspend the rules and pass the bill H.R. 13899.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CONTROL OF THE AFRICAN HONEYBEE

Mr. FOLEY. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 18) to amend the act of August 11, 1922, to prevent the introduction and spread of diseases and parasites harmful to honeybees, and for other purposes, as amended.

The Clerk read as follows:

S. 18

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Act of August 31, 1922, as amended (42 Stat. 833; 76 Stat. 169; 7 U.S.C. 281), is amended to read as follows:

"(a) In order to prevent the introduction and spread of diseases and parasites harmful to honeybees, and the introduction of genetically undesirable germ plasm of honeybees, the importation into the United States of all honeybees is prohibited, except that honeybees may be imported into the United States—

"(1) by the United States Department of Agriculture for experimental or scientific purposes, or

"(2) from countries determined by the Secretary of Agriculture—

"(A) to be free of diseases or parasites harmful to honeybees, and undesirable species or subspecies of honeybees; and

"(B) to have in operation precautions adequate to prevent the importation of honeybees from other countries where harmful diseases or parasites, or undesirable species or subspecies, of honeybees exist.

"(b) Honeybee semen may be imported into the United States only from countries determined by the Secretary of Agriculture to be free of undesirable species or subspecies of honeybees, and which have in operation precautions adequate to prevent the importation of such undesirable honeybees and their semen.

"(c) Honeybees and honeybee semen imported pursuant to subsections (a) and (b) of this section shall be imported under such rules and regulations as the Secretary of Agriculture and the Secretary of the Treasury shall prescribe.

"(d) Except with respect to honeybees and honeybee semen imported pursuant to subsections (a) and (b) of this section, all honeybees or honeybee semen offered for import or intercepted entering the United States shall be destroyed or immediately exported.

"(e) As used in this Act, the term 'honeybee' means all life stages and the germ plasm of honeybees of the genus Apis, except honeybee semen.".

SEC. 2. Section 2 of the Act of August 31, 1922 (42 Stat. 834; 7 U.S.C. 282), is amended to read as follows:

"SEC. 2. Any person who violates any provision of section 1 of this Act or any regulation issued under it is guilty of an offense against the United States and shall, upon conviction, be fined not more than $1,000, or imprisoned for not more than one year, or both.".

SEC. 3. The Act of August 31, 1922, is further amended by adding the following new sections:

"SEC. 3. (a) The Secretary of Agriculture either independently or in cooperation with States or political subdivisions thereof, farmers' associations, and similar organizations and individuals, is authorized to carry out operations or measures in the United States to eradicate, suppress, control, and to prevent or retard the spread of undesirable species and subspecies of honeybees.

"(b) The Secretary of Agriculture is authorized to cooperate with the Governments of Canada, Mexico, Guatemala, Belize, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and Colombia, or the local authorities thereof, in carrying out necessary research, surveys, and control operations in those countries in connection with the eradication, suppression, control, and prevention or retardation of the spread of undesirable species and subspecies of honeybees, including but not limited to Apis mellifera adansonii, commonly known as the African or Brazilian honeybee. The measure and character of cooperation carried out under this subsection on the part of such countries, including the expenditure or use of funds appropriated pursuant to this Act, shall be such

as may be prescribed by the Secretary of Agriculture. Arrangements for the cooperation authorized by this subsection shall be made through and in consultation with the Secretary of State.

"(c) In performing the operations or measures authorized in this Act, the cooperating foreign country, State, or local agency shall be responsible for the authority to carry out such operations or measures on all lands and properties within the foreign country or State, other than those owned or controlled by the Federal Government of the United States, and for such other facilities and means as in the discretion of the Secretary of Agriculture are necessary.

"SEC. 4. Funds appropriated to carry out the provisions of this Act may also be used for printing and binding without regard to section 501 of title 44, United States Code, for employment, by contract or otherwise, of civilian nationals of Canada, Mexico, Guatemala, Belize, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and Colombia for services abroad, and for the construction and operation of research laboratories, quarantine stations, and other buildings and facilities.

"SEC. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.".

The SPEAKER pro tempore (Mr. MCFALL). Is a second demanded?

Mr. SEBELIUS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Washington (Mr. FOLEY) and the gentleman from Kansas (Mr. SEBELIUS) will each be recognized for 20 minutes.

The Chair now recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 18, as amended, to amend the Honeybee Act of 1922.

The House is aware that the Honeybee Act of 1922 was originally enacted to exclude foreign diseases of honeybees from the United States. Since the known foreign diseases infected only the adult hive bee, *Apis mellifera*, the act prohibited the importation of adults of this species alone. Subsequently, it was discovered that additional species of *Apis* could transmit diseases. Therefore, the act was revised in 1962 to include all species of honeybees.

Additional developments since that time indicate that existing law is insufficient to protect the U.S. beekeeping industry from the possibility of severe economic loss with consequential adverse effects on various segments of U.S. agriculture. Nor does the act afford the American people adequate protection from exposure to a serious health hazard.

Recent studies by the Department of Agriculture have revealed that immature honeybees can also carry a dangerous mite pest in their respiratory tracts. Moreover, it has been discovered that a significant number of noxious honeybee parasites and diseases occur abroad that are unknown in this country. The African—or Brazilian—honeybee also poses a potential threat to the American beekeeping industry.

The threat is illustrated by the following quotation from the National Academy of Sciences' final report on the African honeybee, June 1972:

A strain of honeybee not yet present in North America seems likely to enter that continent from the South if its spread is neither hindered nor helped through human agencies. This strain, now rapidly extending its range in South America, has both objectionable and dangerous attributes. Because of its unprovoked mass stinging and because of frequent swarming and absconding, the Brazilian honeybee is dangerous to people and animals and is difficult to manage.

The African honeybee was deliberately imported into Brazil from Africa for research purposes in 1956. Shortly thereafter, queen bees were accidentally liberated and this honeybee strain, known to be highly aggressive and irritable, began spreading throughout South America at the rate of about 200 miles per year.

The strain has mixed with other breeds of honeybees in South America, and has imparted its extremely aggressive traits to the local bee population.

These hybrids are often extremely vicious and difficult to handle. Accidental encounters with livestock and people have resulted in mass stingings that sometimes cause death.

The spread of the African or Brazilian honeybee could also lead to multimillion-dollar losses to American agriculture. If this hybridization should spread to the United States and contaminate domestic strains, the present practice of maintaining bee hives in rural areas, often near human habitation, would probably not be tolerated by the public. This would seriously interfere with the use of bees for crop pollination.

Because of its aggressive foraging for food, domestic bees have disappeared in areas where the African honeybee strain has appeared. Also, African honeybees may take over hives of other bees. This, in turn, creates another loss because the African honeybees may "abscond" or suddenly leave the hives to migrate to other areas. This leaves the beekeeper without producing bees and the adjacent crops without a honeybee pollinator agent. From less than two dozen swarms that escaped from colonies in Rio Claro, Brazil, in 1956, the African or Brazilian honeybee has now spread over an area equal to the continental United States.

S. 18 as amended and reported to the House is designed to remedy the deficiencies in the existing act. The bill would make three main changes in the law applicable to honeybees.

First, it would prohibit the importation of honeybees in all of their life stages—from germ plasm to adult—except under certain specified conditions determined by the Secretary of Agriculture. Under present law, only adult honeybees are covered.

Second, the bill would permit the importation of honeybee semen only from countries which are determined to be free of undesirable species or subspecies of honeybees and which have adequate precautions in operation to prevent the importation of such undesirable honeybees and their semen. Importations into the United States could only be made under rules and regulations prescribed by the Secretary of Agriculture and the Secretary of the Treasury.

Third, the bill would authorize the Secretary of Agriculture to cooperate with State governments, organizations, and individuals and with the governments of Mexico, Colombia, Canada, and the Central American countries to eradicate and control the spread of undesirable species of honeybees, including all forms of the African—or Brazilian—honeybee.

S. 18 was introduced at the request of the administration. The administration supports the bill in its present form. The committee estimates no additional cost over the next 5 years from enactment of the legislation in its present form. According to testimony received by the committee, inspection teams presently in place will be able to perform the additional tasks with respect to controls at the U.S. border on the importation of undesirable species and the introduction of harmful parasites as required by S. 18, as amended. Additional costs would result should it become necessary to implement the cooperative programs authorized by the bill to stem the northern migration of the Africanized honeybee. At the present time the committee estimates that it will not be necessary during the current and 5 subsequent fiscal year period.

A similar cost estimate was submitted to the committee by the Department of Agriculture which stated:

At this time, we do not project the migration of the bee to any of these countries during the next five years. If this projection is correct, no funds would be required for this provision during the five-year period. If the projection is faulty, due to unanticipated events, the level of funding would depend on mutual agreement with the cooperating countries; the extent of the threat; and action by the Congress on proposals which would be submitted at that time.

Mr. Speaker, S. 18 was amended and reported to the House by the Committee on Agriculture by voice vote in the presence of a quorum. I urge the House to support this legislation to provide the necessary protection to the beekeeping industry of the United States—an industry which plays a vital and significant role in American agriculture. In supporting this legislation, the House will also be providing the American people with protection from a possible health hazard.

Mr. SEBELIUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a number of stories have appeared in the newspapers about the African honeybee. It has generally been characterized as a very aggressive bee strain that would cause real or potential problems if introduced into this country.

Testimony before the committee established that a committee of the National Research Council of the National Academy of Sciences completed a study in 1972 concerning the African honeybee in Brazil. That report contained, among other things, a recommendation that legislation be enacted to give the Department of Agriculture authority to

deal effectively with the problems which could result from the accidental or intentional importation of such bee into the United States. Dr. Mussman, the Associate Administrator, Animal and Plant Health Inspection Service, U.S. Department of Agriculture—USDA—testified that USDA considers it essential that Africanized bees be kept out of the United States. He stated that Africanized bees when mixed with other honeybee strains imparted to local bees "singular and potentially troublesome traits—aggressiveness and excessive swarming." Dr. Mussman testified that these hybrid honeybees were often extremely vicious and difficult to handle, and this was said to be especially true in early crosses.

USDA is convinced that there is a real possibility that a hybrid strain of the Africanized bee may be introduced into this country and spread across the country rapidly and, therefore, it recommended passage of S. 18 so as to effect the following legislative changes:

First, it would strengthen the current provisions of the Honeybee Act by prohibiting the importation of honeybees in all stages from egg to adult including semen, with certain exceptions. Excepted would be honeybees imported by the Department for scientific purposes; and importations of bees or semen from those countries of the world which are free of diseases or parasites harmful to honeybees, including undesirable species or subspecies of honeybees.

Second, it would provide the Department with standby authority to cooperate with the several States, Canada, Mexico, the Central American countries, and Colombia in conducting such operations or taking such measures as may become necessary to protect against undesirable species or subspecies of honeybees.

The authority contained in S. 18 is consistent with earlier action taken by the Congress to cooperate with foreign countries in efforts to detect, control, and eradicate agricultural pests and diseases. The authority given USDA in 1947 to combat hoof-and-mouth disease—broadened to include other animal diseases and pests and additional countries in 1971—appears to me to be a clear and favorable precedent for the action we take today regarding honeybees. Moreover, in this Congress we broadened the authority of USDA to deal with the Mediterranean fruit fly—Public Law 94-231, March 15, 1976—and that legislation won general approval.

Under the provisions of this bill, the USDA would still be permitted to import honeybees into the United States for experimental or scientific purposes. Thus, the Africanized honeybees may be brought into the United States under carefully controlled standards and procedures to determine if the Africanized bee can be crossed with domestic varieties so as to create a good producer strain—but one without the vicious and dangerous characteristics of the African honeybee.

Furthermore, in exercising its authority under this bill as it relates to cooperation with foreign governments, the USDA is directed to consult with the State Department.

Based on the experience USDA has gained in dealing with the control of introduction of pests and diseases from foreign countries in the last 50 years, I am confident that USDA representatives will exercise this newly granted authority in an intelligent and evenhanded manner.

I am aware that there are certain segments of the honey producers in this country who consider that this bill may grant too much authority to USDA in cooperating with foreign governments. At least one group opposes the inclusion of sections 3 and 4 of this bill. However, I believe that the weight of the evidence as presented to the committee in its hearings strongly supports the amount and extent of delegation of authority we have provided for in this bill. It appears to me that we in the Congress cannot ignore the clear danger which exists or potentially exists if the Africanized bee strain is introduced into this country.

An ounce of prevention—and, remember USDA can bring in the African honeybee for experimental purposes—and even that may carry some risk—but bee producers are interested in the producing capabilities of the African bee, and I trust that USDA will impose stringent controls on its experiments—is worth a pound of cure. Would it not be wonderful if we had taken the precautions we take today for the honeybee on behalf of the fire ant, which is currently causing so much hardship in the Southwest. The destruction caused by the fire ant to date is tremendous—not only in dollars and cents but in the pain and suffering of animals and humans attacked by the fire ants.

Only one group raised any question about sections 3 and 4 in the bill, and that was accomplished by filing a statement at the hearing. I respect the views and motives of these poeple; however, I view the danger here to be too great to risk a gamble that the African bee will not be introduced to the United States or that if introduced, it will not constitute a danger to the public and perhaps to the entire honeybee industry.

Accordingly, I urge you to vote in favor of this bill as reported favorably to you by the committee.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY) that the House suspend the rules and pass the Senate bill (S. 18), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill (S. 18) just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

ORIENTATION OF DEPENDENTS OF USDA EMPLOYEES HAVING FOREIGN ASSIGNMENTS

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11868) to amend section 602 of the Agricultural Act of 1954, as amended.

The Clerk read as follows:

H.R. 11868

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 602 of the Agricultural Act of 1954, as amended, is amended by adding at the end thereof a new subsection as follows:

"(f) Effective October 1, 1976, the Secretary of Agriculture is authorized to provide appropriate orientation and language training to spouses of officers and employees of the Department of Agriculture in anticipation of an assignment abroad of such officers and employees or while abroad pursuant to this Act or other authority: *Provided,* That the facilities of the Foreign Service Institute or other Government facilities shall be used wherever practicable, and the Secretary may utilize foreign currencies generated under title I of the Public Law 83-480 to carry out the purposes of this subsection in the foreign nations to which such officers, employees, and spouses are assigned. There are hereby authorized to be appropriated such sums, not to exceed $35,000 annually. The Secretary shall submit to the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry not later than ninety days after the end of each fiscal year a detailed report showing activities carried out under authority of this subsection during such fiscal year.".

The SPEAKER pro tempore. Is a second demanded?

Mr. GRASSLEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. DE LA GARZA) will be recognized for 20 minutes, and the gentleman from Iowa (Mr. GRASSLEY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 11868, as amended. The amendment is the text of the bill, H.R. 11868, as amended and reported by the House Committee on Agriculture.

This legislation authorizes the Secretary of Agriculture to provide orientation and language training for spouses of officers and employees of the U.S. Department of Agriculture who have foreign assignments. For this purpose the bill authorizes an annual appropriation of $35,000 effective October 1, 1976.

It is important that spouses of agricultural officers and employees assigned abroad acquire skills to communicate in the language of the country to which they are assigned in order for them to participate in fulfilling the important role of representing U.S. agriculture abroad. It is also useful that the spouses know something of the culture and history of the area to which they are as-

signed as well as to have a general orientation on foreign service requirements. The USDA employee's spouse is an important member of the attaché team and thereby occupies a significant role in the success of U.S. agriculture activities at posts abroad. The husband and wife team in the embassy environment is an instance where the Government gets the services of two people for the price of one. Training of this kind adds to professional confidence and helps to provide for the spouse functioning more effectively in official contacts. Because of service to the Government, it is felt by the committee reasonable that the Government should bear the cost of this training.

The Department of State has authority to provide training for State Department employees and their families in anticipation of their assignments abroad. It also provides similar training for employees and families of other agencies and collects reimbursement from such agencies for the training. While other agencies have legislative authority to reimburse the Department for training of dependents, the USDA does not.

The Foreign Service Institute was advised by the General Accounting Office in 1968 that it should establish a uniform system of charging other agencies for training services and it should document any deviations from this general policy. The Institute then requested the Department of Agriculture to seek the general authority for such reimbursement already possessed by other agencies such as USIA, AID, and CIA. In the interim it has provided training to dependents of USDA employees on a space available basis pursuant to individual requests from USDA for waiver of reimbursement requirements, with the understanding that USDA would continue to seek the necessary legislative authority.

The bill provides that, to the maximum extent practicable, facilities of the Foreign Service Institute or other Government facilities would be used. Authority is also provided to make use of foreign currencies generated under title I of Public Law 480 to carry out the purposes of this section in foreign nations to which the employees and their spouses are assigned. The committee is advised that there are seven countries in which there are language programs where there are excess currencies available.

The Department of Agriculture has estimated 223 professional staff officers are serving abroad at this time. Based on normal rotation the committee has been advised that no more than 50 dependents would be subject to training during any 1 fiscal year and that the amount provided for in this bill should be sufficient to accommodate the needs of the Department. It is estimated that the cost to be incurred by the Federal Government should approximate but would not exceed $35,000 annually for the next 5 fiscal years.

The Subcommittee on Department Operations, Investigations, and Oversight held a public hearing on March 29, 1976, on H.R. 11868 at which the Administrator of the Foreign Agricultural Service, U.S. Department of Agriculture, testified in support of the bill. No testimony was received in opposition to the bill.

The bill, H.R. 11868, as amended, was reported by the Committee on Agriculture by a voice vote in the presence of a quorum.

We are respectfully requesting that the House adopt H.R. 11868, as amended, and reported to the House by the Committee on Agriculture.

Mr. Speaker, I urge the Members of the House to join me in support of this legislation. Its cost is minimal and it would serve the overall interest of the United States in its activities overseas.

Mr. THONE. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. I will be happy to yield to my distinguished colleague, the gentleman from Nebraska.

Mr. THONE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of H.R. 11868, a bill to authorize orientation and language training for spouses of certain officers and employees of the Department of Agriculture.

Mr. Speaker, I am concerned that at times U.S. Government officials and their families are still viewed in the "Ugly American" image. This is typified by the condescending posture of some U.S. employees in foreign countries who say to the natives, "you communicate with me in my language and adjust to my customs." I think it is to our credit that greater emphasis is now being placed on the need not only of our officers, but their spouses, to have a greater familiarity with the language and local customs of their overseas assignment in order to function more effectively in their official contacts.

Our Agriculture attachés and their spouses work together as a "team"—and our Government truly gets this team of two for the price of one—and can provide a great service to our Government in their official activities, which are in accordance with U.S. foreign policy objectives with respect to agricultural matters. Our total farm exports for fiscal year 1975 amounted to $21.6 billion. We hope to further expand these sales. At this time when most of our constituents list the state of our economy as their No. 1 concern, an effective job by our agricultural attachés has the potential of having a favorable impact on our balance of trade with foreign countries. This makes it most urgent that our officers and their spouses be well prepared to form an effective, professional team as representatives of the U.S. Government in their sensitive diplomatic missions.

The Senate version of this bill, S. 3052, was passed unanimously by the Senate on March 16, 1976. The House Committee on Agriculture made several changes to this bill, which makes our bill H.R. 11868, a sounder one.

H.R. 11868 was amended in committee to provide this service only for the spouses of certain officers and not for their entire families. Although it is desirous for an entire family overseas to be familiar with the country's language and customs, we think the Government should only provide this orientation and training to the spouse.

H.R. 11868 was also amended to authorize the use of foreign currencies where practical for language training, and this certainly will save expenditures from our Treasury.

H.R. 11868 was amended to place a $35,000 annual ceiling on this authorization of funds. This funding was authorized, notwithstanding the fact that the Department of Agriculture stated that this legislation would not result in additional costs as it could be absorbed within the total resources of the USDA.

H.R. 11868 also requires the Secretary of Agriculture to submit an annual report to the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry showing the activities carried out under the authority of this legislation.

Mr. Speaker, I urge my colleagues in the House to vote in favor of this bill and thus to give Americans abroad who are serving their country adequate training to better serve our country in economic terms, as well as in terms of leaving favorable impressions of our U.S. employees and Americans generally.

Mr. GRASSLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, so many times we wonder why there are so many big black Cadillacs running around Washington, D.C. The reason why there are is that one bureaucrat sees another bureaucrat has a big black Cadillac, so he wants one and gets it.

Or we may wonder why there are so many walnut-paneled offices in Washington, D.C. One bureaucrat sees that another bureaucrat has a black walnut-paneled office, so he wants one and gets it.

Mr. Speaker, I am opposed to the enactment of H.R. 11868, because it is feeding these same fires of snobbery that are so typical of Washington, D.C. This type of legislation is poorly conceived and in my judgment is not needed. With all the priorities that this country has, this legislation in my judgment ranks low in importance and could be called bordering on the frivolous.

Mr. Speaker, this bill was not on our so-called shopping list that the Committee on Agriculture presented to the Committee on the Budget a few months ago. Therefore, why should we be considering this legislation today?

If I may answer my own question, I think the fact that this bill was not on our list of priorities that we submitted to the Committee on the Budget suggests that the committee did not hold this legislation to be a priority item. Then, the Members will ask, why did this bill reach the floor? The Members can legitimately ask that question now.

I can only say that the bureaucrats in the Foreign Agriculture Service have in my judgment taken a course bent on forcing Congress to provide a fringe benefit which, if this is passed, is highly questionable.

The reason why they are asking for it is because they see some other department or some other Government employee has it, so they want it. If we were to enact this bill, we would be opening another door to back door spending and adding to our national debt.

Mr. Speaker, I have confidence that the present Secretary of Agriculture should be able to figure out a way to provide this training without costing the American taxpayer $35,000.

I would submit that this is already being done, because, after hearing testimony by Foreign Agriculture Service witnesses, who stated that the present situation with regard to language training for USDA dependents is done without cost to the Department, I concluded that the present arrangement with the State Department and the Foreign Service Institute is the best possible arrangement to carry out this sort of training. I do realize that this training is presently done on a space-available basis, which may inconvenience some of the people in the bureaucracy, but it is surely a way that saves the taxpayers' money. That ought to be our prime concern.

I strongly urge my colleagues to reject this type of legislation. Frivolous spending such as this bill advocates is not a good way to spend the taxpayers' funds.

Mr. Speaker, on the merits of this bill, the only justification for language training for families of USDA employees is that the State Department allows this activity. And again I want to emphasize the fact that some other departments get it, so this department feels it ought to have it.

If we follow this reasoning, then all Government employees whose families may go overseas should have this training available to them also.

Mr. Speaker, I find this type of justification lacking merit at a time when our national budget is projecting a $43 billion deficit in fiscal year 1977. I would say to all of the Members present here today that if we voted to do away with a black Cadillac limousine last summer, and we had a chance to do that on the energy bill that was before the House at that time, we ought to vote against this bill.

This bill is just like a snowball at the top of a hill. This is just the very beginning. Every other bureaucrat who travels overseas will be in here asking for these same rights and these same privileges.

Then let me ask. Where are we going to draw the line? Right now is the time to curb the bureaucratic snobbery that is connected with this legislation.

Mr. DE LA GARZA. Mr. Speaker, I yield myself 3 additional minutes.

Mr. Speaker and Members of the House, I take this further time only to assure the Members that the gentleman from Iowa (Mr. GRASSLEY) has espoused his philosophical viewpoint unsubstantiated by the facts in this case. I regret very much having to say that.

This has been done. This has nothing to do with black Cadillacs or white Cadillacs. This has been done heretofore in a very orderly way, with the State Department handling it, being reimbursed by the Department of Agriculture. However, our investigating arm, the General Accounting Office, the investigating arm of the Congress, in studying this procedure, said that there was no legal authorization for the Department of Agriculture to reimburse the State Department. The State Department then acquiesced with respect to that fact and said that on a space-available basis, they would train the Agriculture Department personnel if the Agriculture Department initiated procedures to seek legislative authorization. That is the reason for this bill.

It is not permitted on a space-available basis even under the existing law, but the State Department stated that they would continue doing it until this authorization was secured.

It is very simple. It enhances the ability of a husband and wife to work together as a team for the Government of the United States abroad. If we think that we can balance the budget with $35,000 a year, then we are going to have to have hundreds of thousands of these types of bills in order that the gentleman from Iowa (Mr. GRASSLEY) might be able to object, in his very honest attempt to balance the budget and to try to correct the procedure. However, it is not going to be done with a $35,000 a year bill.

Mr. Speaker, this bill is needed badly because those of us who have jurisdiction over this matter and travel abroad know how exceedingly important it is for the man and his wife to speak the language of the country to effectively serve the Government and the people of the United States. It cannot be done. The whole world does not speak English all the time.

Mr. Speaker, this has to be done if we are going to protect the agricultural interests of Iowa. It has to be done if the agricultural interests of Iowa alone are to be protected and they should be protected, along with the agricultural interests of the United States as a whole.

The SPEAKER pro tempore. The time of the gentleman from Texas (Mr. DE LA GARZA) has expired.

Mr. DE LA GARZA. Mr. Speaker, I yield myself 2 additional minutes.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I heartily endorse the comments of my colleague, the gentleman from Texas (Mr. DE LA GARZA), concerning this bill.

I think it is most important that those who represent us abroad should be able to speak the language of the country to which they are assigned. Although it is true that the husband, in very many cases, is the representative, the wife plays an important role in each instance.

Mr. Speaker, I think this is a very farsighted measure, costing $35,000 a year. I think also that all of our agricultural communities will benefit from this bill.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentlewoman from New Jersey for the remarks she has made.

Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA) that the House suspend the rules and pass the bill (H.R. 11868), as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

Pursuant to clause 3(b) of rule XXVII, and the prior announcement made by the Chair, further proceedings on this motion will be postponed.

Does the gentleman from Ohio withdraw his point of order that a quorum is not present?

CALL OF THE HOUSE

Mr. ASHBROOK. No, Mr. Speaker, I do not. I insist upon my point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 334]

Abzug	Gude	Murphy, Ill.
Allen	Guyer	Nichols
Anderson, Calif.	Hagedorn	O'Hara
	Hansen	Passman
Anderson, Ill.	Harrington	Patterson, Calif.
Andrews, N.C.	Harsha	
Annunzio	Hays, Ohio	Pepper
Ashley	Hébert	Peyser
AuCoin	Heckler, Mass.	Pickle
Beard, R.I.	Heinz	Poage
Beard, Tenn.	Helstoski	Rangel
Bell	Hicks	Rees
Biaggi	Hinshaw	Riegle
Boggs	Jacobs	Risenhoover
Brown, Ohio	Jarman	Roybal
Burke, Calif.	Jeffords	Ryan
Burton, John	Jones, Ala.	Schneebeli
Butler	Karth	Shuster
Carney	Keys	Simon
Clawson, Del	Kindness	Sisk
Conyers	Krebs	Stanton, James V.
Coughlin	Krueger	
D'Amours	Landrum	Steiger, Ariz.
Daniels, N.J.	Latta	Stephens
Danielson	Leggett	Stokes
Davis	Litton	Sullivan
Dellums	Lundine	Symington
Derrick	McCloskey	Symms
Diggs	McCormack	Talcott
Dingell	McDade	Thompson
Downing	McKay	Udall
Drinan	McKinney	Van Deerlin
Edgar	Maguire	Vander Veen
Esch	Mathis	Wampler
Eshleman	Matsunaga	Waxman
Evans, Colo.	Melcher	Whalen
Fenwick	Milford	Wilson, Bob
Fraser	Mineta	Wilson, C. H.
Frenzel	Mink	Young, Alaska
Giaimo	Moakley	Young, Fla.
Green	Mosher	Young, Ga.

The SPEAKER pro tempore. On this rollcall 311 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

U.S. RAILWAY ASSOCIATION AUTHORIZATION

Mr. ROONEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13325) to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the U.S. Railway Association, as amended.

The Clerk read as follows:

H.R. 13325

Be it enacted by the Senate and House of Representatives of the United States of of America in Congress assembled, That sec-

tion 214(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(c)) is amended to read as follows:

"(c) ASSOCIATION.—For the period beginning May 1, 1976, and ending September 30, 1977, there are authorized to be appropriated to the Association for purposes of carrying out its administrative expenses under this Act such sums as are necessary, not to exceed $20,000,000. Sums appropriated under this subsection are authorized to remain available until September 30, 1978.".

The SPEAKER pro tempore. Is a second demanded?

Mr. SKUBITZ. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. ROONEY) and the gentleman from Kansas (Mr. SKUBITZ) will each be recognized for 20 minutes.

The Chair now recognizes the gentleman from Pennsylvania (Mr. ROONEY).

Mr. ROONEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill authorizes a total of $11.8 million over and above the amount currently authorized for administrative expenses of the U.S. Railway Association, USRA, for the period of May 1, 1976 to September 30, 1977.

This bill is designed to help USRA administer its duties to develop plans and estimates for a revision in the ConRail operations under the final system plan. This revision will reflect a modification of the final system plan due to the withdrawal of the Chessie System and the Southern Railway from the reorganization process originally proposed by USRA.

This money will also enable USRA to monitor the activities of ConRail and to prepare the defense of the reorganization of the bankrupt railroads in the courts.

The authorization of $20 million contained in the reported bill includes $8.2 million already authorized by existing law which is repeated in this bill because the current authorization will be repealed by enactment of this legislation.

This increase in the authorization for administrative expenses is necessary because of the substantial increase in duties to be performed by USRA. These duties include:

First. Modification of the final system plan because of the withdrawal of the Chessie System and the Southern Railway from the reorganization process;

Second. Increased monitoring activities over ConRail by the USRA which are required by the Railroad Revitalization and Regulatory Reform Act of 1976; and

Third. Proper legal defense of the fairness and equity of the final system plan in the courts.

USRA must now undertake a substantial and complicated refinement of operating and financial plans for the revised ConRail resulting from the withdrawal of the Chessie and the Southern Railway. This will involve new projections of traffic, operating expenses, revenue, and capital investment. The committee has estimated that $300,000 is required to complete the financial and operational detail for the revised ConRail structure.

As "banker" and "monitor" for ConRail under the new Railroad Revitalization and Regulatory Reform Act of 1976 enacted on February 5, 1976—Public Law 94–210—USRA will be required to conduct a quarterly review of ConRail operations to determine the amount of Federal investment for that quarter and assure that such investment is utilized to establish a profitable, private sector railroad. Also, under the new 1976 act, USRA will administer a loan program of $230 million to provide for payment of certain preconveyance obligations of the bankrupt estates so that the start-up of ConRail will not be disrupted. In administering this program, USRA will have to review working capital accounts of the estates, prepare criteria and procedures, monitor the actions of the borrowers, and take action where required to recover the amount of the loan plus interest.

The committee has estimated that USRA will need $2 million to administer this loan program.

Most of the money authorized by this bill will be used by USRA to prepare for the legal defense of the rail reorganization which will be very complex. More than 40 law firms have been retained by the bankrupt estates and creditors to defend their interest in the reorganization. The committee has estimated that $25 million is being paid annually for legal counsel to oppose the reorganization.

USRA will be required to defend, revise, and update the earnings projections of ConRail, particularly concerning ConRail securities. The revisions of operating plans due to actual experience and predictions of ConRail's future will be two of the many issues confronting USRA in this complex adjudication.

One crucial issue involved in the values that will be assigned to the properties acquired by ConRail. For example, the Penn Central trustees assessed the value of their rail properties to be in excess of $7 billion. USRA, on the other hand, has reached a figure of less than $690 million. The special court will be receiving new evidence from the estates and creditors with respect to prices and figures and USRA will be required to respond to that evidence. The determination by the special court will affect the certificates of value, the value of which is guaranteed by the Federal Government.

The committee feels that $9.8 million of this authorization will be necessary for USRA to prepare a proper and adequate legal defense of the final rail reorganization plan, including the preparation of supporting economic, financial, and operational material for use by the attorneys involved.

One committee amendment is included in the reported bill. That amendment deletes from the introduced bill a provision that allowed sums appropriated to remain available until expended. In lieu thereof, the committee amendment would authorize such sums to remain available only until September 30, 1978. This will encourage a review of USRA administrative expenditures before more money is authorized.

Mr. Speaker, I urge the passage of this legislation.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. ROONEY. I yield to the distinguished gentleman from West Virginia.

Mr. STAGGERS. Mr. Speaker, I rise in support of this very important bill to help the U.S. Railway Association, USRA, carry out a substantial increase in its duties. Among other things, USRA will be required to modify the final system plan because of the withdrawal of the Chessie System and the Southern Railway from the reorganization process: To increase its monitoring activities over ConRail as required by the Railroad Revitalization and Regulatory Reform Act of 1976; and to provide for a proper legal defense of the fairness and equity of the final system plan in the courts.

The $20 million authorized in this bill includes $8.2 million already authorized by existing law. The existing authorization is included in this bill because it would be repealed by enactment of this legislation. Briefly, the remainder of the authorization, $11.8 million, will be used as follows:

First, $2 million will be used to administer a loan program of $230 million provided for under the new Railroad Revitalization and Regulatory Reform Act of 1976 in order to make payments on certain preconveyance obligations of the bankrupt estates so that the startup of ConRail will not be disrupted.

Second, $300,000 will be used to complete the financial and operational modifications for the revised ConRail structure in view of the withdrawal by the Chessie System and the Southern Railway.

Third, the largest amount, $9.8 million, will be used to prepare a proper and adequate legal defense of the final rail reorganization plan, including the preparation of supporting economic, financial, and operational material for use by the attorneys involved. The crucial issue that is involved will be the values to be assigned to the properties acquired by ConRail. The Penn Central trustees, for example, have assessed the value of their rail properties to be in excess of $7 billion. On the other hand, USRA has valued the rail properties at a figure of less than $690 million.

The special court will be receiving evidence from the estates and creditors with respect to the valuation of rail properties and USRA will be required to respond to that evidence. The determination by the special court will affect the certificates of value which are guaranteed by the Federal Government. Obviously, the "potential" liability of the Federal Government is very great.

The committee has estimated $25 million is being paid annually to more than 40 law firms which have been retained by the bankrupt estates and creditors to defend their interest in the reorganization.

The committee amendment included in the bill would authorize sums appropriated under this authorization to re-

main available only until September 30, 1978. Under existing law, sums appropriated would have remained available until expended. This will encourage a review of USRA administrative expenditures before making any additional authorization.

Mr. Speaker, I urge the passage of this legislation.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

I welcome the efforts by the committee in bringing this measure before the House, in order to enhance USRA's monitoring role over ConRail. I would like to call to the attention of the distinguished chairman from West Virginia (Mr. STAGGERS) that when the initial funding of USRA was before the House, earlier in the 94th session, I had raised the question of funding during the consideration of an emergency appropriation under the Regional Railroad Reorganization Act. The long, lingering repair of an important rail bridge, the Poughkeepsie railroad bridge, which had been left inoperative following a fire on May 8, 1974, and which had gone without any attention from either the Federal agencies or from the State Department of transportation.

This is an important and vital link to the rail system between New York State, Connecticut, and the entire New England region. Unfortunately, this bridge still remains in a state of disrepair. At that time, in a colloquy on the House floor—February 19, 1975—I had the assurance of the distinguished chairman of the committee, the gentleman from West Virginia, that the committee would "try to do whatever (they) could do" so that the bridge would be repaired.

I call to the attention of the committee the fact that this important rail link still remains in an unusable state, affecting vital rail transportation in our area. I urge and request the committee to assist us in our efforts to have this important rail bridge repaired.

Mr. ROONEY. Mr. Speaker, I will be very happy to respond to the gentleman from New York. We are going to hold hearings in Elmira on June 26 on the Murphy bill, and we are looking for competition and hope that we will find a competitive company that will compete with ConRail. If that does happen, the Poughkeepsie problem will be taken care of.

Mr. MOFFETT. Mr. Speaker, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from New York (Mr. GILMAN) in so far as he brings to our attention a very important matter which has important consequences not only for his State, but for my State of Connecticut.

I think our concern here is, if in fact there is no competitive service, then what? I think the gentleman and I can make a very strong case for this bridge being repaired even if there is no competition, because the matter will still be there. The gentleman knows that there are reams of testimony from both New York and Connecticut officials on the importance of this bridge being repaired so that we can get vital freight between New York and Connecticut.

I certainly would also urge that the subcommittee keep an eye on this matter and that the full committee keep an eye on this matter and, hopefully, USRA can use its influence to see that we do have this vital service maintained in the system.

Mr. ROONEY. Mr. Speaker, if the gentleman will yield, the gentleman from Connecticut well knows this was in the final system plan, in the beginning, but when the Chessie was pulled off, then it was eliminated.

I can assure both of the gentlemen that it will be given serious consideration.

Mr. GILMAN. I thank the gentleman for his supportive remarks, and we certainly will welcome the committee's concern and attention to this problem. It is of vital concern to the economy of both New York and Connecticut. The fact that there is not a competitive system should not be a condition for repairing this important bridge. The Poughkeepsie rail bridge is important to the ConRail System, even without a competitor. I thank the gentleman from Connecticut for his concern and for his attention and efforts in seeking to resolve this issue.

Mr. SKUBITZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of this bill is simply to provide funds so that USRA can continue its work with respect to fending off litigation surrounding the creation of ConRail, and working out certain modifications in the final system plan in order to accommodate the requirements of a big ConRail.

Mr. Speaker, USRA was set up as a result of the 1973 Regional Rail Reorganization Act. Its primary purpose was to devise a plan to solve the problem of having eight bankrupt railroads in the Northeast. The Association undertook its job with skill and vigor and was one of the few Government agencies to submit its reports on time. All of the Members will recall the massive preliminary system plan and the equally sizable final system plan which was submitted to Congress by USRA. After considering those plans, Congress accepted the recommendations of USRA with few modifications.

Last February, the President signed into law the Railroad Revitalization and Regulatory Reform Act of 1976. That act contained the implementing legislation necessary to create ConRail and to give it a fighting chance to be successful. Unforeseen at that time was the fact that two important parts of the final system plan would not take place because a small group of men chose to place self-interest above the need for a strong rail transportation for the Northeast. I am referring to the fact that the planned purchases by the Chessie Railroad system and the Southern Railroad system never took place because agreements with organized labor became impossible. As a consequence of that failure, the so-called big ConRail plan was put into place. In short, this means that with the exception of some trackage rights given to the Delaware & Hudson Railroad, the Northeast, and much of the Midwest, is now served by ConRail, and ConRail alone. This change in plans has required additional man-hours by USRA in order to work out trackage rights and other provisions contained in the original final system plan.

USRA now has two jobs: First, it will continue to monitor ConRail operations so as to determine the advisability of continuing the committed Federal payments authorized by the railroad legislation enacted in February. Second, it has the responsibility to take the lead in putting together the kind of legal defense which is necessary in order for the United States to show that the properties now a part of ConRail were, in fact, not taken without due process, but were simply the result of an income-based reorganization.

In this latter area, the U.S. Government will be faced with massive resources and teams of lawyers put together by creditors of the bankrupt railroads, stockholders of the bankrupt railroads, and in some cases, shippers who utilize the services of the bankrupt railroads. It is estimated in the committee report that the legal bill for those trying to extract additional money from the U.S. Government as a result of the creation of ConRail will run conservatively at $25 million per year. Those interests in opposition to the reorganization will spare no effort to see that the rest of the taxpayers in America dole out to them the maximum amount possible. As a defense against that kind of action, it is incumbent upon USRA, the Justice Department, and other interested agencies in Government to effectively explain why the amounts provided in the legislation enacted last February are more than adequate to meet the requirements of the Constitution. As a result of the effort necessary by the Federal Government, however, USRA needs to expend more money than was originally contemplated when the agency was created in 1973.

Mr. Speaker, this bill simply provides that USRA is authorized to expend funds not to exceed $20 million between May 1, 1976, and September 30, 1977. In addition it is permitted that the authorization be carried over until September 30, 1978, since at this period of time, no one can ascertain with certainty the exact amount of money which may be necessary to hire competent lawyers to defend the position of this Congress and the U.S. Government.

I recommend the approval of this piece of legislation.

Mr. Speaker, I now yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I did not want this occasion to pass without the House taking notice of the fact that included in this authorization for the administrative expenses of USRA is approximately, according to the committee report, $300,000 to complete the financial and operational details for the revised ConRail structure.

I would fault the report on one point. It says that this additional expenditure on behalf of USRA is due to the failure of the management of the C. & O. Railroad and Southern Railway to purchase a certain portion of the rails belonging to the Penn Central on the Delmarva Peninsula.

If it is anybody's failure, fault can be placed squarely, first of all, on the unions, including the Brotherhood of Railroad Clerks, who unreasonably and unwarrantedly refused to agree to a very reasonable settlement. Second, the blame must be placed on the Congress of the United States, for writing a provision into the original law that gave the unions the veto power over these final rail plans.

In the case of service on the Delmarva Peninsula, the three Members representing that area, the gentleman from Virginia (Mr. DOWNING), the gentleman from Delaware (Mr. DU PONT), and myself have introduced legislation that would remove this union veto. I would predict that unless the Committee on Interstate and Foreign Commerce takes action on this legislation, we will see more requests for more millions of dollars to be spent to finance this area of rail operation even though private enterprise is willing and able and capable of taking it over.

I would like to ask the gentleman from West Virginia (Mr. STAGGERS) or the gentleman from Pennsylvania (Mr. ROONEY) what if any plans their committee has to consider legislation to change the provisions of the law in order to permit Southern and Chessie to take over these areas of rail operation. The only thing now standing between them and private enterprise operating the service is the provision of the ConRail law which gives the rail unions veto power over the economic lifeblood of these areas.

We have introduced this bill, and I, as well as others, have spoken privately with the gentleman from West Virginia (Mr. STAGGERS). When are we going to have some action on this?

Mr. ROONEY. Mr. Speaker, if the gentleman from Maryland will yield, action will be taken if there is a willing buyer, and if there is a willing buyer and they can get together, we will pass legislation that will allow them to take over the Delmarva line.

Mr. BAUMAN. Mr. Speaker, I will state to the gentleman that there has been a willing buyer all along, the Southern Railway. There was a willing buyer up to the very moment this settlement was scuttled by the union bosses, even against the will of their local membership.

Mr. ROONEY. There was a willing buyer, but he was unwilling to accept some of the labor agreements of the prior railroad, as I understand it.

Mr. BAUMAN. Mr. Speaker, I will say to the gentleman that if that is the contingency he is awaiting, there will never be any legislation, because the Brotherhood of Railway Clerks and the six other unions involved will never accept these reasonable terms, because they think they can do better at taxpayers' expense under ConRail than they ever can if we allow private enterprise to come in and provide good railway service in my area.

If the gentleman's committee will not offer any solution in this area, hopefully we can offer an amendment to a bill that reaches the floor so we can put the House on record as saying whether we want to continue this labor monopoly and the millions of dollars it costs to the detriment of the public.

Mr. ROONEY. Mr. Speaker, if the gentleman will yield further, there is a willing buyer who is negotiating right now with ConRail, and if they negotiate this contract, we will accept an amendment that will allow this to be completed.

Mr. BAUMAN. Mr. Speaker, I look forward to that day, but I do not hold my breath.

I thank the gentleman and include at this point an article from the Washington Post of March 24, 1976:

DELMARVA RAIL PLAN COLLAPSES AS UNION REJECTS U.S. PACT

(By William H. Jones)

Efforts to establish Southern Railway as successor to the bankrupt Penn Central on the Delmarva Peninsula apparently collapsed yesterday when a key union—the Brotherhood of Railway and Airline Clerks—declined to sign a labor agreement drawn up by Secretary of Transportation William T. Coleman Jr.

Barring a new decision by the union, rail service throughout the Delaware-Maryland-Virginia peninsula is scheduled to be reduced drastically starting April 1, as a result of the breakdown.

Consolidated Rail Corp., a new firm set up to continue service on most Penn Central routes, will operate trains over less than 200 miles on the peninsula compared with 460 miles now under Pennsy ownership.

In addition, a north-south rail route, anchored at Wilmington and made possible by a barge connection across the lower Chesapeake Bay, will be abandoned, eliminating potential competition for the federally subsidized Conrail.

Citing the absense of competition for Conrail and the loss of jobs, Coleman suggested that Congress should consider imposing a Delmarva labor agreement by law. Congressional aides said they were studying the possibility but passage of antilabor legislation in an election year was doubtful, they said.

Coleman placed blame for the breakdown on the BRAC and seven other unions he said would have gone along with BRAC. At a news conference yesterday morning, following talks that broke off about 2 a.m., Coleman charged that the unions' refusal to sign was "an exercise in unreasonableness and irresponsibility."

The nation's largest rail union, the United Transportation Union, agreed to Coleman's terms after the news conference but BRAC and six other unions declined.

The Transportation Secretary, who spent nearly 15 hours in continuous talks with labor leaders, said "there was no reason of any substance that should have prevented acceptance.

Sen. J. Glenn Beall, Jr. (R-Md.), a major supporter of legislation that fostered a reorganization of the Northeast region's bankrupt lines, accused the unions of "a callous disregard" for the public interest and warned that taxpayers will end up suffering the most—through less revenues from Delmarva business and extra payments to rail workers without jobs on Conrail. "I feel betrayed," Beall said.

BRAC President C. L. Dennis denied Coleman's version of what happened in a statement yesterday afternoon, even as Coleman was on the telephone, trying to seek a change in the union's decision. "We do resent the unfortunate and complete distortion of facts," said Dennis. But the BRAC leader agreed to meet in Coleman's office late yesterday at the secretary's request to discuss the situation.

Coleman said BRAC wanted the positions of its 55 Delmarva members to come under the terms of its Penn Central contract. Higher wage scales on the Pennsy would have been paid to workers who transferred to Southern employment and BRAC members who elected to go to work for Conrail could do so. Moreover, if no jobs were available on Conrail, the rail reorganization act provides funds to pay these workers.

Southern wanted to hire all 518 Penn Central workers in Delmarva but sought to transfer some to other locations where work was available. On Monday, Southern gave up this demand and agreed to sign Coleman's contract with the "greatest reluctance," in order to complete the deal.

Dennis said yesterday, however, that Coleman's agreemnt would "give away undeserved economic benefits to the Southern . . . during all these negotiations the Southern Railway has remained adamant . . . and unyielding; it has made no significant concessions."

BRAC contended that Coleman's contract would "sign away basic principles that have been well established for over 40 years," contract terms with Northeast railroads that are more lucrative than agreements with rail firms in the South.

Specifically, BRAC negotiators objected strongly to Coleman's language that would continue higher Penn Central wage scales for those workers transferred to Southern but would install the lower Southern wages for newly hired workers.

According to the Maryland Chamber of Commerce, more than 7,000 jobs in industries in the four counties of the lower Eastern Shore depend on rail transportation. Several thousand more are estimated in Delaware and Virginia.

Maryland's Department of Transportation, responding to the unexpected Delmarva crisis, has drawn up proposals to seek subsidies that would keep service alive on some lines to be abandoned by Conrail.

If approved by the federal government, the United States would subsidize the lines for an initial year, after which the state would start sharing costs along routes in which Southern had planned to invest $30 million for upgrading.

Mr. CONTE. Mr. Speaker, I rise in support of the bill to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the U.S. Railway Association.

This legislation has become necessary in the light of the failure of the Southern and Chessie Railway system failing to participate in the ConRail final system plan. Under the originally contemplated plan, the ConRail system would have consisted of approximately 15,000 route miles. Because the Chessie and Southern did not participate, ConRail had to include an additional 2,000 miles in its final system plan. This has resulted in a multitude of additional administrative and legal expenses for the new "unified ConRail."

The Rail Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210), has imposed increased monitoring responsibilities by the U.S. Railway Association over the ConRail system.

These increased and uncontrollable financial responsibilities had resulted in the need to increase the USRA authorization level from $45.8 million which it is now, to $65.8 million as proposed by this legislation. The legal responsibilities revolving around the proceeding before the "special court" are extremely complex and unpredictable. It is for this reason that the committee recommended that $8.2 million of the $20 million increase remain available through fiscal year 1978 to insure that adequate financial support is available for the duration of the proceeding before the special court.

It is clear that this legislation is most necessary. This legislation has the support of the Administration and deserves passage.

I urge my colleagues to support this legislation.

Thank you, Mr. Speaker.

Mr. SKUBITZ. Mr. Speaker, I have no further requests for time.

Mr. ROONEY. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. McFALL). The question is on the motion offered by the gentleman from Pennsylvania (Mr. ROONEY) that the House suspend the rules and pass the bill H.R. 13325, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROONEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

SECURITIES AND EXCHANGE COMMISSION STUDIES EXTENSION

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13246) to amend the Securities Exchange Act of 1934, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Securities Exchange Act of 1934 is amended—

(1) in the second sentence of section 11A (e), by striking out "December 31, 1976" and inserting in lieu thereof "June 30, 1977"; and

(2) in the second sentence of section 12 (m), by striking out "one year" and inserting in lieu thereof "18 months".

The SPEAKER pro tempore. Is a second demanded?

Mr. McCOLLISTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. MURPHY) and the gentleman from Nebraska (Mr. McCOLLISTER) will each be recognized for 20 minutes.

The Chair now recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield such time as he may consume to the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, the bill that we are considering for markup today concerns merely technical amendments to the Securities Exchange Act of 1934. The bill, H.R. 13246, extends for 6 months each, two studies which the 1975 Securities Exchange Act amendments directs the Commission to undertake. The due date of the first, concerning the securities-related activities of banks, would be extended from December 31, 1976, to June 30, 1977. The second is the "street name study," which concerns the impact of the common practice of holding securities in "nominee" and "street name," rather than in the name of the beneficial owner. The bill would extend the due date of the Commission's final report from June 4, 1976, to December 4, 1976.

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill that we are considering today concerns apparently noncontroversial amendments to the Securities Exchange Act of 1934. The bill, H.R. 13246, extends for 6 months each, two studies which the 1975 Securities Exchange Act amendments directs the Commission to undertake. The due date of the first, concerning the securities-related activities of banks, would be extended from December 31, 1976, to June 30, 1977. The second is the "street name study," which concerns the impact of the common practice of holding securities in "nominee" and "street name," rather than in the name of the beneficial owner. The bill would extend the due date of the Commission's final report from June 4, 1976, to December 4, 1976.

The Securities and Exchange Commission has been unable to complete the two studies within the requisite period because of certain unanticipated delays in gathering information.

Mr. McCOLLISTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the chairman of the full committee, the gentleman from West Virginia (Mr. STAGGERS), and the chairman of the subcommittee, the gentleman from New York (Mr. MURPHY), have said it exactly right. The bill passed both the subcommittee and the full committee unanimously.

Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill (H.R. 13246), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion, on which further proceedings were postponed, in the order in which that motion was entertained.

Votes by electronic device will be taken in the following order: H.R. 13567, by the yeas and nays, and H.R. 11868.

The Chair will reduce to a minimum of 5 minutes the time for any electronic votes after the first such vote in this series.

AMENDING THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT OF 1958

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill (H.R. 13567), as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. SMITH) that the House suspend the rules and pass the bill (H.R. 13567), as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 341, nays 2, not voting 88, as follows:

[Roll No. 335]

YEAS—341

Abdnor	Bingham	Burton, Phillip
Adams	Blanchard	Byron
Addabbo	Blouin	Carr
Alexander	Boland	Carter
Ambro	Bolling	Cederberg
Andrews, N. Dak.	Bonker	Chappell
	Bowen	Chisholm
Archer	Brademas	Clancy
Armstrong	Breaux	Clay
Ashbrook	Breckinridge	Cleveland
Aspin	Brinkley	Cochran
Badillo	Brodhead	Cohen
Bafalis	Brooks	Collins, Ill.
Baldus	Broomfield	Collins, Tex.
Baucus	Brown, Calif.	Conable
Bauman	Brown, Mich.	Conlan
Beard, R.I.	Broyhill	Conte
Beard, Tenn.	Buchanan	Corman
Bedell	Burgener	Cornell
Bennett	Burke, Fla.	Cotter
Bergland	Burke, Mass.	Coughlin
Bevill	Burleson, Tex.	Crane
Biester	Burlison, Mo.	D'Amours

Daniel, Dan	Jones, Okla.	Rangel
Daniel, R. W.	Jones, Tenn.	Regula
de la Garza	Jordan	Reuss
Delaney	Kasten	Rhodes
Dent	Kastenmeier	Richmond
Derwinski	Kazen	Rinaldo
Devine	Kelly	Roberts
Dickinson	Kemp	Robinson
Dingell	Ketchum	Rodino
Dodd	Keys	Roe
Downey, N.Y.	Koch	Rogers
Downing, Va.	LaFalce	Roncalio
Drinan	Lagomarsino	Rooney
Duncan, Oreg.	Leggett	Rose
Duncan, Tenn.	Lehman	Rosenthal
du Pont	Lent	Rostenkowski
Early	Levitas	Roush
Eckhardt	Lloyd, Calif.	Rousselot
Edwards, Ala.	Lloyd, Tenn.	Runnels
Edwards, Calif.	Long, La.	Ruppe
Eilberg	Long, Md.	Russo
Emery	Lott	St Germain
English	Lujan	Santini
Erlenborn	Lundine	Sarasin
Evans, Ind.	McClory	Sarbanes
Evins, Tenn.	McCollister	Satterfield
Fary	McEwen	Scheuer
Fascell	McFall	Schroeder
Fenwick	McHugh	Schulze
Findley	McKay	Sebelius
Fish	McKinney	Seiberling
Fisher	Madden	Sharp
Fithian	Madigan	Shipley
Flood	Mahon	Shriver
Florio	Mann	Shuster
Flowers	Martin	Sikes
Flynt	Mathis	Simon
Foley	Mazzoli	Sisk
Ford, Mich.	Meeds	Skubitz
Ford, Tenn.	Melcher	Slack
Forsythe	Metcalfe	Smith, Iowa
Fountain	Meyner	Smith, Nebr.
Frey	Mezvinsky	Snyder
Fuqua	Michel	Solarz
Gaydos	Mikva	Spellman
Gibbons	Miller, Calif.	Spence
Gilman	Miller, Ohio	Staggers
Ginn	Mills	Stanton, J. William
Goldwater	Minish	Stark
Gonzalez	Mitchell, Md.	Steed
Goodling	Mitchell, N.Y.	Steelman
Gradison	Moffett	Steiger, Ariz.
Grassley	Mollohan	Steiger, Wis.
Gude	Montgomery	Stratton
Hagedorn	Moore	Stuckey
Haley	Moorhead, Calif.	Studds
Hall	Moorhead, Pa.	Sullivan
Hamilton	Morgan	Taylor, Mo.
Hammer-schmidt	Mosher	Taylor, N.C.
Hanley	Moss	Teague
Hannaford	Mottl	Thone
Harkin	Murphy, N.Y.	Thornton
Harris	Murtha	Traxler
Harsha	Myers, Ind.	Treen
Hawkins	Myers, Pa.	Tsongas
Hayes, Ind.	Natcher	Ullman
Hébert	Neal	Vander Jagt
Hechler, W. Va.	Nedzi	Vanik
Hefner	Nix	Vigorito
Henderson	Nolan	Waggonner
Hightower	Nowak	Walsh
Hillis	Oberstar	Waxman
Holland	Obey	Weaver
Holt	O'Brien	White
Holtzman	O'Neill	Whitehurst
Horton	Ottinger	Whitten
Howard	Patten, N.J.	Wiggins
Howe	Patterson, Calif.	Wilson, Tex.
Hubbard	Pattison, N.Y.	Winn
Hughes	Pepper	Wirth
Hungate	Perkins	Wolff
Hutchinson	Pettis	Wright
Hyde	Pike	Wydler
Ichord	Pressler	Wylie
Jacobs	Preyer	Yates
Jarman	Price	Yatron
Jenrette	Pritchard	Young, Ga.
Johnson, Calif.	Quie	Young, Tex.
Johnson, Colo.	Quillen	Zablocki
Johnson, Pa.	Railsback	Zeferetti
Jones, Ala.	Randall	
Jones, N.C.		

NAYS—2

McDonald	Paul

NOT VOTING—88

Abzug	Ashley	Burton, John
Allen	AuCoin	Butler
Anderson Calif.	Bell	Carney
Anderson, Ill.	Biaggi	Clausen, Don H.
Andrews, N.C.	Boggs	Clawson, Del
Annunzio	Brown, Ohio	Conyers
Daniels, N.J.	Burke, Calif.	Riegle
Danielson	Karth	Risenhoover
Davis	Kindness	Roybal
Dellums	Krebs	Ryan
Derrick	Krueger	Schneebeli
Diggs	Landrum	Stanton, James V.
Edgar	Latta	Stephens
Esch	Litton	Stokes
Eshleman	McCloskey	Symington
Evans, Colo.	McCormack	Symms
Fraser	McDade	Talcott
Frenzel	Maguire	Thompson
Giaimo	Matsunaga	Udall
Green	Milford	Van Deerlin
Guyer	Mineta	Vander Veen
Hansen	Mink	Wampler
Harrington	Moakley	Whalen
Hays, Ohio	Murphy, Ill.	Wilson, Bob
Heckler, Mass.	Nichols	Wilson, C. H.
Heinz	O'Hara	Young, Alaska
Helstoski	Passman	Young, Fla.
Hicks	Peyser	
Hinshaw	Pickle	
Jeffords	Poage	
	Rees	

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Allen.
Mr. Annunzio with Mr. Andrews of North Carolina.
Mr. Giaimo with Mr. Ashley.
Mr. Nichols with Mr. Dominick V. Daniels.
Mr. Symington with Mr. Van Deerlin.
Ms. Abzug with Mr. O'Hara.
Mr. Vander Veen with Mr. Derrick.
Mr. Udall with Mr. Bell.
Mr. Thompson with Mr. Anderson of Illinois.
Mr. Roybal with Mr. Conyers.
Mr. AuCoin with Mr. Helstoski.
Mr. Pickle with Mr. Esch.
Mr. Harrington with Mr. Matsunaga.
Mr. John L. Burton with Mr. Eshleman.
Mr. Davis with Mr. Frenzel.
Mr. McCormack with Mr. Brown of Ohio.
Mr. Charles H. Wilson with Mr. Guyer.
Mr. Biaggi with Mr. Hansen.
Mr. Stokes with Mr. Brown of California.
Mr. Riegle with Mrs. Mink.
Mr. Passman with Mr. Hicks.
Mr. Hays of Ohio with Mr. Don H. Clausen.
Mr. Anderson of California with Mr. Jeffords.
Mr. Krueger with Mr. Butler.
Mr. Green with Mr. Karth.
Mr. Milford with Mr. Kindness.
Mr. Carney with Mr. Del Clawson.
Mr. Mineta with Mr. Maguire.
Mr. Murphy of Illinois with Mr. McCloskey.
Mr. Litton with Mr. Landrum.
Mr. Krebs with Mr. Heinz.
Mr. Diggs with Mr. Fraser.
Mr. Moakley with Mr. McDade.
Mr. Edgar with Mr. Dellums.
Mr. Evans of Colorado with Mr. Rees.
Mr. Risenhoover with Mr. Latta.
Mr. Danielson with Mr. Peyser.
Mr. Ryan with Mr. Schneebeli.
Mr. James V. Stanton with Mr. Stephens.
Mr. Wampler with Mr. Talcott.
Mr. Bob Wilson with Mr. Whalen.
Mr. Young of Alaska with Mr. Symms.
Mr. Young of Florida with Mrs. Heckler of Massachusetts.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rule on which the Chair has postponed further proceedings.

ORIENTATION OF DEPENDENTS OF USDA EMPLOYEES HAVING FOREIGN ASSIGNMENTS

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill (H.R. 11868), as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA) that the House suspend the rules and pass the bill, H.R. 11868, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to authorize orientation and language training for spouses of certain officers and employees of the Department of Agriculture."

A motion to reconsider was laid on the table.

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the Senate bill (S. 3052) to amend section 602 of the Agricultural Act of 1954, and I ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 602 of the Agricultural Act of 1954, as amended, is amended by adding at the end thereof the following new subsection:

"(f) Appropriations available to the Secretary of Agriculture may be used to provide appropriate orientation and language training to families of officers and employees of the Department of Agriculture in anticipation of an assignment abroad of such officers and employees or while abroad pursuant to this Act or other authority: *Provided,* That the facilities of the Foreign Service Institute or other Government facilities shall be used wherever practicable.".

MOTION OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DE LA GARZA moves to strike out all after the enacting clause of the Senate bill (S. 3052) and to insert in lieu thereof the provisions of H.R. 11868, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to authorize orientation and language training for spouses of certain officers and employees of the Department of Agriculture.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 11868) was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of H.R. 11868, of the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDING REGULATIONS OF DEPARTMENT OF AGRICULTURE PERTAINING TO PRICE SUPPORT PAYMENTS UNDER NATIONAL WOOL ACT OF 1954

Mr. FOLEY. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 532) to authorize the Secretary of Agriculture to amend retroactively regulations of the Department of Agricuture pertaining to the computation of price support payments under the National Wool Act of 1954 in order to insure the equitable treatment of ranchers and farmers.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. JENRETTE. Mr. Speaker, reserving the right to object, I would like to ask the gentleman if this is the agricultural bill that was on the Consent Calendar?

Mr. FOLEY. Mr. Speaker, wil the gentleman yield?

Mr. JENRETTE. I am happy to yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, the gentleman is correct. This bill was scheduled this morning for action on the Consent Calendar. It is now my information that there is no objection to the immediate consideration of this bill by any official objectors on either side of the aisle.

Mr. JENRETTE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 532

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is authorized to amend retroactively regulations of the Department of Agriculture pertaining to the computation of price support payments under the National Wool Act of 1954 in order that the amount of such payments may, in the case of any rancher or farmer, be computed on the basis of (1) the net sales proceeds received, or (2) in the case of any rancher or farmer who failed to realize the amount provided for in the sales document, the lesser of the following: (A) the net sales proceeds based on the price the rancher or farmer would have received had there been no default of payment under such document, or (B) the fair market value of the commodity concerned at the time of sale.

SEC. 2. The Secretary of Agriculture is further authorized to reconsider any application filed for the repayment of price support under the National Wool Act of 1954 with respect to any commodity marketed during the four marketing years 1969 through 1972 and to make such payment adjustments as he determines fair and equitable on the basis of any amendment to regulations made under authority of the first section of this Act.

Mr. RONCALIO. Mr. Speaker, the bill would retroactively amend USDA regulations to provide that a farmer or rancher who failed to receive the purchase price in the bill of sale for his wool would still be eligible to receive wool price support payments under the 1954 act.

About 50 wool producers in the past few years have been denied price support payments due to bankruptcy of the firm which purchased their wool. They received then, neither the purchase price for the wool sold from the buyer nor the price support payment from USDA. This legislation would allow the farmer or rancher to receive the support payment.

It is estimated that approximately $150,000 would be paid to the many producers.

During 1969 and early 1970, a number of wool producers in Colorado, Idaho, and Wyoming delivered wool to a marketing agency, relinquished title to the wool and received an advance with the balance to be paid on delivery. For many of these growers notes received for the balance proved to be worthless. Since incentive support payments are determined on the net proceeds from sale of the wool, these wool producers were denied payment of the support by USDA.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill S. 532, just passed, and that I be permitted to extend my own remarks.

The SPEAKER. Is there objection to the request of the gentleman from Wyoming?

There is no objection.

APPOINTMENT OF CONFEREES ON S. 3295, AMENDING HOUSING AND COMMUNITY DEVELOPMENT LAW

Mr. REUSS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3295) to amend and extend the laws relating to housing and community development, and for other purposes, with House amendments thereto, insist on the House amendments and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin? The Chair hears none, and appoints the following conferees: Mr. REUSS, Mr. ASHLEY, Mrs. SULLIVAN, and Messrs. MOORHEAD of Pennsylvania, STEPHENS, ST GERMAIN, GONZALEZ, MITCHELL of Maryland, PATTERSON of California, LAFALCE, AUCOIN, BROWN of Michigan, J. WILLIAM STANTON, ROUSSELOT, WYLIE, and MCKINNEY.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO MEET JUNE 9, 10, AND 11, 1976, FROM 10 A.M. TO 12 NOON

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be permitted to sit from 10 a.m. to 12 noon on Wednesday, Thursday and Friday of this week.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO MEET JUNE 9, 10, 11, 1976, FROM 10 A.M. TO 12 O'CLOCK NOON

Mr. MELCHER. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be permitted to meet on Wednesday and the balance of the week between 10 o'clock a.m. and 12 noon, notwithstanding the fact that the House is in session.

The SPEAKER pro tempore (Mr. MCFALL). Is there objection to the request of the gentleman from Montana?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

MIGRANT HEALTH LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. MCFALL) is recognized for 5 minutes.

Mr. MCFALL. Mr. Speaker, this morning I am introducing a bill which would amend the Migrant Health Act to expand health services to agricultural field workers.

Last year, the Congress passed the Health Revenue Sharing Act which contained substantial revisions of previous migrant health legislation. For more than a decade, the Congress has been considering how both migrant and seasonal farmworkers can best be served by federally funded health programs. The respective committees in both Chambers have recognized the need to serve migrants on a priority basis, while at the same time noting that seasonal farmworkers have many of the same health problems as migrants. Both committees have thus expressed a desire to also include seasonals in migrant health programs.

The amendments to the migrant health law passed last year represented an attempt to achieve these aims. However, instead of resulting in increased availability of migrant health services in areas which have high numbers of migrant and seasonal farmworkers, the legislation has served to reduce funding into these areas.

This anomaly is created by three contradictory provisions in the law. Section

319(a)(1) of the law expresses the purpose of migrant health centers to be delivery of primary health care to both migrant and seasonal workers. Section 319(a)(5) also recognizes the need to identify "high impact areas" for the purpose of migrant health service delivery. These are areas in which more than 6,000 migrant and seasonal workers live. However, under section 319(b)(1) of the law, these high impact migrant health service areas are to be assigned priority rankings based solely on the number of migrants residing in the area. The number of seasonal workers is not factored in when setting the priorities.

Consequently, when migrant funds are allocated to the different regions under HEW regulations, the amount is determined primarily from the number of "migrant man-years" in the particular region, to the virtual exclusion of seasonal workers. As the legislation, and the pursuant regulations, now stand, California and all of DHEW region IX stand to lose a substantial share of funding over the next year.

The priorities have been established in this manner because it is commonly assumed that migrant workers have significantly different health needs than do seasonal workers. I question that assumption. Simply because an individual has changed from migrant to seasonal worker status does not mean he is less in need of health services. Migrants and seasonals work side by side in the fields, and they both travel to other sections of a valley and State seeking work, though one worker prefers to settle his family in a single location while the other does not. While the overall living conditions of the migrant worker may be poorer than that of the seasonal worker, the latter cannot be considered to enjoy a significantly higher socioeconomic standard than the former.

It is true, of course, that seasonal farmworkers may avail themselves of medicaid insurance by virtue of their residency. However, preliminary findings of data collected by DHEW region IX Health Administrator's office indicate that the administrative burden of migrant health centers to collect medicaid reimbursement for services to seasonals is actually more expensive than the amount of funds actually collected.

The legislation which I introduce today to amend the migrant health law seeks to restore equity of treatment for seasonal farmworkers in the allocation of health funds and services. In addition, I hope it will contribute to a redefinition of migrant and seasonal workers as occupational groups. Until this is done, we cannot accurately ascertain what types of community services both groups require.

SOCIAL SECURITY DISABILITY PROGRAM INEQUITABLE TREATMENT OF WOMEN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG) is recognized for 20 minutes.

Ms. ABZUG. Mr. Speaker, the House Ways and Means Committee has been holding hearings on the social security disability system. In testimony submitted to the committee I discussed the need for more equitable treatment for women and men by the social security system and two bills which I introduced H.R. 14131, H.R. 14132 to meet those problems. H.R. 14131 ends the disparate treatment between men and women by requiring that husbands, fathers, and widowers receive benefits on the same basis as wives, mothers, and widows. H.R. 14132 provides benefits to disabled spouses of wage earners for the first time and provides full benefits to widows and widowers without regard to age. I would like to take this opportunity to insert my testimony into the RECORD:

TESTIMONY BY REPRESENTATIVE BELLA S. ABZUG

Mr. Chairman, I want to thank you for this opportunity to discuss the changes which I believe are necessary in the social security disability program.

The role of women has changed dramatically since the Social Security Act was enacted. Today women comprise approximately 40% of the labor force. Because of the longer life expectancy for women more elderly women are living alone and are poor. More than two out of three poor persons in the 65 plus age category are women. While some changes have been made in the social security system, inequitable treatment of women persists. This is particularly evident in the disability benefit scheme.

Only about 40% of women workers are covered by disability insurance under Social Security, in contrast to approximately 90% for men. The current earnings requirement is a tremendous barrier to the collection of benefits by disabled women workers. Setting a minimum age requirement of 50 years for eligibility for disabled widows severely limits the number of women who qualify. Women who work as homemakers and receive dependents benefits have no disability coverage at all.

I have sponsored and co-sponsored legislation to remedy these inequities and I urge the Committee to consider these changes in recommending reform of the disability insurance system.

I. DISABLED SPOUSE

Social Security benefits are payable to a wife or husband of a retired or disabled worker beneficiary if she is 62. Benefits are also payable to a wife under 62 if she is caring for a child who is under 18 or is disabled and is entitled to child's benefits on the husband's earnings. Wives and husbands of insured workers are not eligible for any disability benefits.

I have introduced a bill, H.R. 14132, which provides that benefits should be paid to disabled wives and husbands of beneficiaries. Eligibility for these benefits would be similar to the requirements for dependents old age benefits. Benefits would only be payable to the spouse of disabled or retired Social Security beneficiaries. A disabled spouse would have to meet the same requirements as other disability recipients and the amount of the benefits would be calculated in the same manner as the benefit for the retired spouse, or one-half of the primary insurance payment of the wage worker.

Like aged wives of beneficiaries, totally disabled wives frequently face a sharp decline in family income when the working spouse retires or becomes disabled. Yet, they have almost no opportunity to supplement the family income through their own work. The disability often results in additional expense for the family, yet the retired worker's benefit may be the only regular income for the couple. Often someone must be hired to perform the homemaking tasks previously performed by the spouse. Yet there is no compensation for the loss of the services to the couple. My bill would correct this inequity.

Eligibility for disability benefits would also permit Medicare coverage for disabled spouses. This would relieve the burden of high medical costs which the couple incurs to care for the disabled spouse.

I have previously introduced a bill, H.R. 11840, that would extend all social security coverage, disability and retirement, to homemakers. Significant changes are required in the system to eliminate the disparate treatment of women and men in the program and to ensure equal treatment. However, since this Subcommittee is only considering changes in the disability system, I have tried to limit my recommendations to this particular area. Providing disability benefits to spouses would be a first step, at least, in recognizing the value of the services performed by the homemaker and providing compensation for the loss of these services.

The argument that it is difficult to determine disability for an individual with a sparse work history is a specious one. The social security system already makes such determinations for disabled widows and widowers and for disabled children.

The cost of this proposal is small. Social Security estimates that the long range cost would be .06% of the taxable payroll with a first year cost of $275 million. Approximately 400,000 spouses would be covered by such a provision, most of whom would be women. A similar recommendation was made by the 1971 Social Security Advisory Council.

II. DISABLED WIDOWS AND WIDOWERS

Social security benefits are provided for widows and dependent widowers between ages 50 and 60 who are disabled. To qualify for benefits, a widow or widower must have become disabled before, or within 7 years after, the spouse's death. The amount of the benefit depends on the age at which benefits begin. These requirements are much more restrictive than the eligibility requirements for workers. In 1973, the Social Security Administration paid about $8.8 million to 79,000 disabled widows and widowers. Disability coverage for all workers was initially limited to those over 50. However, this restriction was repealed four years later in 1960 after this committee concluded there was no administrative or other justification for continuation of this arbitrary distinction. This same reasoning applies to the Widows situation.

In 1965 and again in 1971 the Advisory Council on Social Security recommended that benefits be provided to disabled widows and widowers regardless of age. My bill, H.R. 14132, would implement these recommendations. The 1971 report notes that the needs of a younger disabled widow may be even greater than those of widows over age 50, since such couples would have less time to accumulate savings or otherwise provide for their future.

In addition to the restrictive age requirement, disabled widows are singled out for reduced benefits. For example, the disabled widow's benefit is 50% of the deceased husband's benefit if payment begins at age 50; 60¾% if payment begins at age 55.

The needs of a disabled widow are as great as those of the aged widow. Yet disabled widows are singled out for this actuarial reduction so that their benefits range from 50% to 71.5%, while aged widows receive benefits ranging from 71.5% to 100% of the deceased husband's primary insurance amount. A disabled widow, like an aged widow, has lost her sole means of support and should receive similar benefits to compensate her for the lost earnings.

Disabled widows constitute one of the poorest groups in our society. In 1971, all widows under age 60 with no work and no children under 18 had a median income of $1,170, 74% of these widows lived in poverty. Although a disabled widow is not eligible for social secu-

rity benefits until 50 under current law, 18% of those awarded disability benefits in 1971 had become totally disabled before age 50.

To the extent that disabled widows must now turn to welfare for their support, the costs of the supplemental security income program would be reduced. The case for extending full benefits to disabled widows without regard to age is overwhelming. They have less income than aged widows and higher expenses.

The Social Security Administration estimates that 440,000 disabled widows and widowers would be newly eligible for benefits or eligible for higher benefits if the full benefits were provided regardless of age at a long range cost of .09% of the taxable payroll. The first year cost would be approximately $285 million.

Disabled widows also suffer disparate treatment in that there is no opportunity for this group to engage in a trial work period without the risk of losing their eligibility for all benefits. In the 1960 Social Security Act Amendments a provision was included to permit a disabled person, provided his disability has not medically improved, to return to work for up to 9 months and still receive benefits. If at the end of this 9 month trial work period the worker is found to be able to engage in substantial gainful activity, benefits are terminated in three months. Thus a disabled worker may experiment with his vocational skills up to a year without losing his eligibility for benefits. There is no such incentive for disabled widows. Despite the emphasis on vocational rehabilitation in the disability system no provision is made to encourage widows to return to work.

My bill, H.R. 14132, would permit widows and widowers as well as disabled husbands and wives to participate in this program. All recipients of disability benefits should be encouraged to return to work including those who have not had a steady work history in the past.

Current law permits surviving divorced disabled wives to qualify for benefits but there is no similar provision for divorced husbands. Husbands attempting to qualify for benefits based on the earnings record of their wives face an additional barrier because they must prove their dependency, that they receive one-half of their support from their wives. There is no similar requirement for women. Sex alone should not be a basis for treating persons differently under the Social Security Act. I have introduced a bill, H.R. 14131, which eliminates disparate treatment of men and women throughout the Social Security Act, so that benefits for husbands, widowers and fathers will be payable on the same basis as benefits for wives, widows and mothers.

Requiring husbands to meet additional criteria for benefits not only discriminates against the male recipients on the basis of sex, but also discriminates against the woman worker. Although women pay the same tax as male workers, they receive less protection for their families than do male workers. The woman's husband will not be automatically entitled to benefits upon her retirement, disability or death despite her fully insured status.

In recommending changes in the disability program, I would urge the Committee to incorporate into its proposals these principles of equity. The overall cost of extending these benefits to men is negligible since most of those eligible would receive higher benefits on their own wage records. The Congress should take the lead in removing these inequities as they are already under attack in our courts and are inconsistent with our commitment to equality of all persons regardless of sex.

III. DISABLED WORKERS—RECENT WORK REQUIREMENTS

Qualification for disability insurance requires not only 40 quarters of coverage, but also requires that twenty of these quarters be earned during the 10-year period ending with the quarter in which the disability occurred. This latter requirement, known as the recent work test has a particularly harsh effect on women workers. Only 40% of women workers can meet these requirements for disability insurance. This is the result of the interrupted employment experienced by many women who withdraw from the labor force for short periods of time for child birth and child rearing. Thus a woman who has accumulated 40 quarters of coverage and is fully insured, who left the labor market, returned to work for a year and became disabled, would not qualify for social security disability benefits. Despite her fully insured status and her contributions to the social security fund, women in this situation are denied benefits.

I am the co-sponsor of a bill, H.R. 4315, which would eliminate the "recent work" requirement. So long as an individual is fully insured and meets the statutory definition of disabled, he would be entitled to collect benefits. Elimination of this restriction would benefit those workers who go in and out of the labor market as well as those workers who suffer a gradual disability. The 20 out of 40 quarters requirement was originally justified because of the difficulty in developing a permanent disability for someone who had been out of the labor force for a long period. Disability determinations have now progressed so that accurate determinations can be made without this requirement. Moreover, disability determinations are made regularly under the program in the cases of widows and widowers and adults who become disabled in childhood, without regard to whether they have done recent work or in fact whether they have ever worked.

The Social Security Administration estimates that approximately 1 million people would become eligible for disability benefits if the current work requirement was eliminated. This would cost about 1.6 billion in the first year.

I realize that at a time when predictions are being made concerning the depletion of the disability trust fund, it is difficult for the Congress to extend benefits to any group. The Committee is understandably concerned about the stability of the trust fund and the question of whether additional financing is necessary. These are problems which shall have to be addressed whether or not new programs are adopted. However, I don't believe that this should be the basis for rejecting all changes in the system. Women are not receiving equitable treatment under the social system and remedying these inequities should not be postponed. Two hundred years after the founding of the Nation we should take steps to eliminate such sex discrimination in our laws.

Eliminating the recent work requirement would provide working women with the flexibility necessary for them to take advantage of disability benefits. Reducing the age requirement and raising benefit levels for disabled widows and widowers would put them on a par with other recipients of disability benefits. Extending coverage to disabled spouses would at least be a small step in recognizing the services performed by the homemaker spouse and would provide some protection to the spouse if struck by disability. I urge the Committee to adopt these recommendations.

UNITED STATES RESPONSE TO THE GROWING REPRESSION IN SOUTH AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 10 minutes.

Mr. KOCH. Mr. Speaker, today in South America a campaign of terror is being waged against those who dare to speak out in behalf of their beliefs. The right-wing military dictatorships which dominate the Southern Cone have systematically violated human rights in their attempts to quell not only leftist opposition, but moderate and conservative dissent as well. The repressive situation in Chile is best known in the United States, probably because of the role that the United States played in the destabilization of the Allende regime, which lead to his overthrow and assassination. The United States must bear part of the responsibility for the barbarism that has taken place—and which continues to take place—in Chile.

In the past months, however, I have worked to make my colleagues more aware of the tragic but little known situation in Uruguay. Since 1973 when the military took control of the government, Uruguay has descended from a once strong democracy into what I must call the charnal house of Latin America. The repression there is a well-established fact, documented by Amnesty International and even confirmed by the State Department. It is estimated that there are 5,000 political prisoners in Uruguay, a nation of 2.5 million people: One in every 500 is a political detainee. The 22 case studies of torture in Uruguay prepared by Amnesty International is gruesome reading, but what it clearly demonstrates is that Uruguay must be considered at least the equal of Chile in terms of torture.

This widespread repression has lead to an exodus from these countries by political figures for fear for their lives. The U.N. High Commissioner on Refugees has estimated that there are 20,000 political exiles living in Argentina. In a bizarre way, Argentine became a haven, because Juan Peron, and his wife and successor, for reasons best known to them, accepted refugees from these countries. The institution of military dictatorship in Argentina and the events of the past months indicate that those political refugees are now in grave danger. Just 2 weeks ago, four Uruguayan exiles were kidnaped and murdered. Two of those murdered, former Senators Zelmar Michelini and Hector Gutierrez Ruiz, are considered by many to have been highly distinguished parliamentarians and defenders of human rights. The reports that have been made available to me indicate that elements of the Argentine military and right-wing para-military groups are cooperating with the governments of Chile and Uruguay to exterminate the dissidents of those regimes. While there is greater controversy as to whether right or left wing groups are responsible for the kidnaping and murder of Bolivian ex-President Juan Jose Torres, it is clear that the Argentine Government lacks the ability and the willingness to assure the safety of the political exiles living in Argentina. The Argentine Government's callousness is evident from its attitude toward the kidnaping. When Torres' wife asserted that her husband had been kidnaped, the response was to say that Torres had probably gone into hiding and that such an assertion could well be part of "a well-concerted effort directed from abroad

to discredit the government." The truth is that the Argentine Government has discredited itself by refusing to protect the lives of those to whom it granted asylum.

So it is clear that there is no longer political asylum in Argentina. Those who had thought they had reached safety are again now open targets of military and para-military violence. Perhaps more terrifying is that the governments of Chile and Uruguay can reach beyond their borders to eliminate their opposition without fear of Argentine intervention. The specter of a bloodbath of opposition leaders in South America is no longer a remote possibility, but a desperate reality here today.

What then should be the response of the United States? It is said that there is a great deal of political violence in Latin America, and the United States can do little about the situation. I disagree with that position. I have been greatly disappointed with the lack of response by the State Department. While the murders of Michelini and Gutierrez Ruiz outraged world opinion, not one major administration official publicly condemned the murders.

I believe the United States should adopt a two-pronged strategy—which will have to originate here in Congress—to improve the situation and perhaps save lives. First, we must take a good hard look at our military assistance to military dictatorships in Latin America. That reappraisal has already begun. This past week the House Appropriations Committee accepted without dissent my amendment cutting off all military assistance to Uruguay. I think there is a growing revulsion to our providing military assistance to such repressive regimes, especially as in the case of Uruguay where there is no external threat and the sole rationale for aid is to assist in maintaining their internal security. The amount of aid for Uruguay was small—$3 million, but the amounts for other countries are much greater. Argentina will receive $48 million in military assistance—in training and credit sales—and one must question the wisdom of such massive aid. Overall, we will furnish over $200 million in military assistance to Latin America. Given what appears to be an an increasingly repressive situation, we must question whether we wish to be closely associated with the militaries which dominate these governments.

The other effort we must make is to offer political asylum to those political exiles in Argentina who are in danger of their lives. I wholeheartedly supported our welcoming the hundreds of thousands of Cuban and Vietnamese refugees who were endangered for having been identified with U.S. policy. Contrast this to the 65 heads of household that we have allowed in from Chile. I think that kind of asylum policy is the height of hypocrisy. Can we turn our backs on those who struggle against military dictatorships, whether they be right or left wing? In the case of Chile, we have a responsibility to offer safety to those who have been driven from their homeland in part as a result of U.S. policy. In the case of Uruguay, many Uruguayan nationals living in Argentina are stranded there, because they have no valid traveling papers. The Uruguayan Government requires those who wish to renew passports to return to Uruguay, which would mean imprisonment for many, if not death. Without freedom of travel, these Uruguayans can only hope they will not be the next victims of the death squads which are operating with complete impunity.

I have urged that a parole visa program be established to insure swift and sure asylum to those who desperately need the safety the United States can offer. The program for Chilean nationals, both for those in Chile and in Argentina, should be expanded and encouraged. Torres' murder means that we must offer all South American political exiles in danger of their lives the refuge of the United States. I will be introducing a resolution to this effect this week.

In a strange way we are reliving the 1940's, when thousands who were being persecuted by Hitler's Nazi Germany found refuge in South America. Now the United States has the opportunity to offer the same kind of haven to South Americans fleeing repression. Let us act now so that other political exiles may be spared the fate of those who have been kidnaped and murdered in what is now an international and in part government-sponsored campaign of political extermination.

I am apprehending my letter to Secretary of State Henry Kissinger respecting the Uruguayan refugees. To date I have not received a response:

Washington, D.C., May 24, 1976.

Hon. HENRY KISSINGER,
Secretary of State,
State Department,
Washington, D.C.

DEAR MR. SECRETARY: While I wrote to you only last week concerning the parole visa program for Chile, I must write to you again to express my concern for the lives of those Uruguayans living in Argentina and ask that you establish a parole visa program for Uruguayan refugees. As you undoubtedly know, four Uruguayan exiles, including former Senator Zelmar Michelini and former Speaker of the Chamber of Deputies Hector Gutierrez Ruiz, were kidnapped and murdered in Buenos Aires last week. It is alleged that these murders indicate that elements within the Argentine military are cooperating with the military dictatorships of Chile and Uruguay to eliminate "troublesome" exiles.

With the lives of other Uruguyan exiles in danger, I urge you to establish a parole visa program for Uruguayan refugees. As I understand the situation, Uruguayan exiles whose passports are expiring are required to return to Uruguay for a passport renewal, where they would face certain imprisonment. Since those Uruguayan exiles have no valid traveling papers, they have no freedom of movement. I understand that Zelmar Michelini at one time contemplated a visit to the United States, but had no valid passport with which to travel. One can only speculate whether his life would have been saved, but we do know that there are other Uruguayans living in Argentina, fearing for their lives and desperately needing the safety that the United States can provide. I would urge you to intercede on their behalf in order to help prevent a reoccurrence of last week's terrorism.

All the best.

Sincerely,

EDWARD I. KOCH.

PRESIDENT LAURA JOHNSON OF HARTFORD COLLEGE FOR WOMEN RETIRES AFTER 34 YEARS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, the Hartford College for Women of my district, is a unique institution, firmly committed to its goal of providing a strong liberal arts education for women. This year, its president of 34 years, Laura Johnson, has retired from her leadership of the college.

Hartford College for Women has grown greatly since 1943, when Miss Johnson first arrived as the school's dean. At that time, the school had 45 students and a small faculty. The student body has since grown to 225, and the school's reputation has grown as well.

Hartford College remains committed to a small college atmosphere that provides individual attention for its students. In an age of impersonal and computer-oriented education, I believe the school's regard for each of its students is an important value.

Although she has retired from her official duties, Miss Johnson will remain as active as ever in the affairs of the community. I am certain that my colleagues will want to join me in congratulating one of Connecticut's leading educators for her effective work on behalf of the ideals of liberal arts education.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, recently the President signed into law H.R. 94–304 which establishes a Commission on Security and Cooperation in Europe.

It is especially fitting in this Bicentennial Year that such a commission be created to monitor implementation of the Helsinki agreement which contains commitments to many of the ideals embodied in our own Declaration of Independence.

It is to be hoped that members of the Commission will be appointed shortly so that the Commission can begin its important task of discovering whether the Helsinki agreement's promise will be fulfilled or whether its noble objectives will be subverted by the actions of the signatory countries.

The text of Public Law 94–304 is as follows:

PUBLIC LAW 94–304

An act to establish a Commission on Security and Cooperation in Europe.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is established the Commission on Security and Cooperation in Europe (hereafter in this Act referred to as the "Commission").

SEC. 2. The Commission is authorized and directed to monitor the acts of the signatories which reflect compliance with or violation of the articles of the Final Act of the Conference on Security and Cooperation in Europe, with particular regard to the provisions relating to Cooperation in Humanitarian Fields. The Commission is further authorized and directed to monitor and encourage the development of programs and activities of the United States Government and private organizations with a view toward taking advantage of the provisions of the Final Act to expand East-West economic cooperation and a greater interchange of people and ideas between East and West.

SEC. 3. The Commission shall be composed of fifteen members as follows:

(1) Six Members of the House of Representatives appointed by the Speaker of the House of Representatives. Four members shall be selected from the majority party and two shall be selected, after consultation with the minority leader of the House, from the minority party. The Speaker shall designate one of the House members as chairman.

(2) Six Members of the Senate appointed by the President of the Senate. Four members shall be selected from the majority party and two shall be selected, after consultation with the minority leader of the Senate, from the minority party.

(3) One member of the Department of State appointed by the President of the United States.

(4) One member of the Defense Department appointed by the President of the United States.

(5) One member of the Commerce Department appointed by the President of the United States.

SEC. 4. In carrying out this Act, the Commission may require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary. Subpenas may be issued over the signature of the Chairman of the Commission or any member designated by him, and may be served by any person designated by the Chairman of such member. The Chairman of the Commission, or any member designated by him, may administer oaths to any witness.

SEC. 5. In order to assist the Commission in carrying out its duties, the President shall submit to the Commission a semiannual report, the first one to be submitted six months after the date of enactment of this Act, which shall include (1) a detailed survey of actions by the signatories of the Final Act reflecting compliance with or violation of the provisions of the Final Act, and (2) a listing and description of present or planned programs and activities of the appropriate agencies of the executive branch and private organizations aimed at taking advantage of the provisions of the Final Act to expand East-West economic cooperation and to promote a greater interchange of people and ideas between East and West.

SEC. 6. The Commission is authorized and directed to report to the House of Representatives and the Senate with respect to the matters covered by this Act on a periodic basis and to provide information to Members of the House and Senate as requested. For each fiscal year for which an appropriation is made the Commission shall submit to Congress a report on its expenditures under such appropriation.

SEC. 7. There is authorized to be appropriated to the Commission for each fiscal year and to remain available until expended $350,000 to assist in meeting the expenses of the Commission for the purpose of carrying out the provisions of this Act, such appropriation to be disbursed on voucher to be approved by the Chairman of the Commission.

SEC. 8. The Commission may appoint and fix the pay of such staff personnel as it deems desirable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates.

"COAL SLURRY PIPELINE—6"—THE SLURRY PIPELINE LOBBY

(Mr. SKUBITZ asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SKUBITZ. Mr. Speaker, beginning with May 26, 1976, I have called attention to the House of a bill, H.R. 1863, the coal slurry pipeline bill, which is now pending before the House Interior Committee. This bill would grant Federal powers of eminent domain to the slurry pipelines.

On May 26, I discussed the question of eminent domain, which can be found on page 15521 of the RECORD. On May 27, I discussed the fact that this is transportation legislation, not energy legislation, this can be found on page 15878 June 1, I spoke on the railroad's capability of handling the increased coal production, this is on page 16078. June 2, I spoke of the threat that slurry lines offer to the survival of this country's railroad industry, this can be found on page 16246. On June 3, I spoke of the railroad industry's innovative rail hauling of coal, this is on page 16740 of the RECORD.

This is another in my series of presentations concerning the grant of eminent domain to coal slurry pipelines as proposed by H.R. 1863.

Today, I would like to discuss the slurry pipeline lobbyist.

So far, I have confined my discussion of H.R. 1863, to its merits or lack thereof. I have discussed misconceptions about the nature of the proposed legislation. I have discussed misconceptions about the alleged benefits of pipeline operation. And I have explored the effects that enactment of this legislation would surely have upon the existing transportation network.

I intend, as I have indicated, to further discuss questions bearing directly on pipeline operations and on the movement of coal.

Today however, I would like to concentrate my attention—and yours—on the interest of some of those who want this bill passed—and the means being used to accomplish their purpose.

The most obtrusive advocate of the coal slurry pipeline is the Bechtel Corp., an engineering and construction firm. Bechtel joined with Lehman Brothers and Kansas-Nebraska Natural Gas to create Energy Transportation Systems, Inc., the company that would operate the first planned pipeline, the one between Wyoming and Arkansas.

The president of Bechtel Corp. is George Schultz, former Secretary of the Treasury. A vice president of Bechtel is Caspar Weinberger, former Secretary of Health, Education, and Welfare.

Peter G. Peterson, former Commerce Secretary, is chairman of the board of Lehman Brothers.

I do not mean to suggest that there is anything automatically improper about Government officials taking jobs in private industry. Or that companies with such officials should be barred forever from any endeavor which would require them to seek governmental action. And, most specifically, I do not suggest any improper activities by the individuals I have mentioned.

I do not charge that the fact that some of these individuals once held high positions in the present administration helped in securing administration support for their goals. However, as the lady said about her chicken soup—it could not hurt.

I do know that there has been intensive lobbying on this legislation—lobbying that serves as denial of the proponents' claim that this is a simple, routine measure.

For example, a look at the hearing record shows that, when ETSI officials appeared to testify on the legislation, they brought along their general counsel, which seems natural enough. And, under the kind of circumstances we are dealing with here, it might also be natural that their general counsel is Paul Haerle, who also happens to be the national committeeman of the Republican Party in California.

This relationship—and the ones cited earlier—were reported in a Scripps-Howard News Service story that appeared in the Rocky Mountain News of March 29, 1976.

That same story also took note of the fact that the newly formed Slurry Transport Association—an organization apparently formed for the sole purpose of lobbying for eminent domain legislation—has hired as its head the former Clerk of this House, W. Pat Jennings. Again, I suggest no impropriety. But again, it can not hurt.

These relationships were also traced in a story that appeared in the March 29 edition of the Wichita, Kans., Eagle. And, just 2 days later in that same paper, it was reported that Kent Frizzell, who had been Under Secretary of Interior, had been considered for appointment to the Secretary's post, but was rejected because he had once raised legal questions concerning coal slurry pipelines. In addition, I understand that Frizzell and a number of his lawyers are now parting company with the Department of Interior. It will be interesting to see what they now have to say.

In a series of articles during October 1975, Reporter Steve Aug, of the Washington Star, outlined events that led Senator ABOUREZK to call for an investigation of possible conflict of interest involving that same Department of the Interior and the Bechtel Corp.

According to the stories, Bechtel approached the Office of Coal Research—as it was then known but which is now part of the Energy Research and Development Administration—and offered to conduct a study involving the relative merits of slurry pipelines to conduct a study involving the relative merits of slurry pipelines versus railroads. The offer was not only accepted but Bechtel was paid some $418,000 for the study—which, not surprisingly, concluded that

under certain circumstances it would be cheaper to ship coal by slurry pipeline than by rail.

There has been, in fact, considerable maneuvering in the area of studies of coal and coal transportation, but that is a subject I intend to deal with separately.

I do think, at this point, we should try to examine motives. Why are the proponents fighting so hard for this bill?

Frankly, the notion of operating a coal slurry pipeline—in the fact of all the problems I see associated with the business—does not seem all that attractive to me.

The problems associated with running a slurry pipeline do not apply to the construction of a slurry pipeline. Presumably the Bechtel Corp. expects to get that job. It has a 40-percent interest in ETSI.

Now, let us see what could happen. ETSI executes a 30-year through-put contract to deliver coal to a utility. The contract is used as a financing vehicle to raise the funds for construction. Bechtel builds the pipeline and gets paid for the job. Lehman Brothers, the other principal partner does the financing and also gets paid. At that point, it is up to ETSI. If the pipeline firm makes money, Bechtel and Lehman Brothers both take cuts based on their respective ownership of 40 percent. And Kansas-Nebraska for 20 percent. If ETSI fails, that is tough—to the extent that they lose their nominal investment in ETSI. But that could be offset many times over by profits from the construction job and the financing operations.

In the Washington Star, dated May 25, 1976, an article appeared by John Holusha entitled "Big Steel's Chief No Word Mincer"—which makes one wonder U.S. Steel has taken chips in the game.

In that article Mr. Holusha discusses the controversy that now exists between the United States Steel and the pollution-control agencies of the Government—but sprinkled in that article are these very interesting statements and I quote:

A current dispute on this point with government officials in the suburban Pittsburgh area seemed behind Speer's decision to hold a full-blown press conference yesterday to make the less-than-extraordinary announcement that the company would build a large diameter pipe-making facility in Texas.

Permit me to restate the last five lines:

. . . that the company would build a large diameter pipeline facility in Texas.

And then the article quotes Mr. Speer as saying, "the political environment" of an area "necessarily has to play a part" in "investment decisions."

He said:

The Environment at Baytown, Texas, seemed more to his liking, Speers said.

He continued:

Spear said that the local building trades had signed the equivalent of a non-strike agreement so the new plant can be completed by early 1978.

The date is important, he said, because it has to be ready to supply pipe for the proposed Alaskan natural gas pipeline and proposed coal slurry pipelines.

One begins to wonder how many chips U.S. Steel has taken in the game as it relates to the slurry pipeline.

I point out that those proponents of the establishment of the slurry pipeline are not "bush leaguers" and that if they get into this game, the stakes are pretty high.

That is, of course, only a scenario. There is no way to know for certain that it is a correct assessment of the motives of those lobbying for passage of this measure.

GAO CRITICIZES MISPLACED PRIORITIES IN SYNFUELS GUARANTEE

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, the recent testimony of Mr. Monte Canfield, Director, Division of Energy and Minerals of the U.S. General Accounting Office, puts into perspective the enormous difficulty the country faces in forming an energy program that is productive, practical, and in the public interest. Mr. Canfield concentrates on the scope of legislative proposals for Federal financial support of energy technology and the questions we must consider about these proposals. In light of the recent reemergence of the administration's multibillion-dollar financing proposal for synthetic fuels I urge all Members to read Mr. Canfield's testimony:

STATEMENT OF MONTE CANFIELD, JR.

Mr. Chairman and Members of the Committee, we welcome the opportunity to be here today to consider with you the difficult problems of developing and commercializing energy technology. I would like to lay out a perspective and then focus my comments on two things:

An overview of the scope of various legislative proposals now before the Congress that would provide various combinations of Federal financial support for developing and commercializing energy technologies;

A brief description of recent and ongoing GAO work bearing on the question of Federal financial assistance for developing and commercializing energy technologies.

PERSPECTIVE ON ENERGY DEVELOPMENT

A large number of issues and choices face Congress in dealing with energy development. Energy development is a slow process. Legislative action will occur years in advance of actual impacts. While we recognize that legislative decisions will be required without full information, it is important that the Congress and the Nation focus on some critical issues and trade-offs that can enhance the quality of the decisions to be made.

First, there are no simple choices. Each technology has to be weighed against the benefits and costs of competing options. Those options are not only on the domestic production side. For example, while often overlooked, conservation is truely one of our least costly supply options. Consideration of financing conservation improvements as alternatives to, and complements to, large capital-intensive supply technologies is essential to rational decisionmaking.

Second, although no consensus exists among financial experts, sufficient capital will probably not be forthcoming to support the entire range of developing energy technologies. We can't do everything—we must choose. Further, since it is unlikely that private industry will be able to capture the benefits of many of the more expensive and risky research and development options, some form of Government financing will probably be necessary to stimulate new energy technologies. Developing the criteria to choose among competing technologies and choosing the funding levels for each will be difficult, but equally essential.

For each option we should pursue the question: When could the technology be commercialized? Also the energetics, or thermodynamic efficiencies, should be carefully weighed. Such a weighing of the net energy output for each technology, will enable us to make energy efficiency comparisons among competing technologies. Adverse environmental effects and social costs of development must be considered as part of the total cost of any energy development project. Also, external influences, such as dependence on foreign oil, must be considered in choosing among future options and short term security.

Even once a decision is made to pursue a given option, we are not home free. Deciding among the most desirable methods for encouraging development, including various forms of Government ownership, tax policy, import controls, loan guarantees, price supports, etc., all depend upon the technology and the energy strategy and goals.

ENERGY DEVELOPMENT LEGISLATION

With this perspective in mind, it is useful to recognize that there are three main types of legislative proposals to financially assist the development of new energy technologies. Only by looking at all three areas comprehensively can a true picture of the total costs of energy development emerge.

First, what is termed "front-end" assistance is proposed. This amounts to subsidies to states and local governments in regions which are largely rural and unindustrialized to help them plan for development and to provide the public facilities necessary as a result of the development. Assistance could be in the form of loans, loan guarantees, and planning grants.

Second, since private investors are reluctant to build and operate new risky commercial or near-commercial facilities, incentives in the form of loan guarantees, interest subsidies and tax write-offs are proposed.

Finally, even after commercial-sized plants are subsidized and operating, there is a potential that synthetic fuels will be too high priced to compete with alternatives such as domestic oil and coal or oil imports. Therefore, subsidies to producers in the form of price supports or to users in the form of tax incentive or low interest loans have been proposed to enable higher cost technologies to compete in the market place.

For example, legislative proposals have been submitted which would guarantee purchase of products. One would set up a board to purchase synthetic fuels and solar energy, and auction them off to the highest bidder. Some of these proposals cover more than one of the three financing categories discussed; but none is truely comprehensive. The point is that no one piece of proposed legislation covers in any comprehensive way the entire range of financial support being considered.

ENERGY INDEPENDENCE AUTHORITY

The Administration's most comprehensive energy development proposal would establish an Energy Independence Authority (EIA). The bill, S. 2532, would encourage the development and commercial operation of domestic energy sources and to a lesser extent, encourage energy conservation. A total of $100 billion would be available to the EIA. The proposal would authorize direct investment in energy technologies, loans, loan guarantees, and price guarantees.

Our central concern lies in the proposal's lack of balance. The bill exhibits a clear preference for initiatives of the supply-increasing variety. According to one provision of the bill the conservation projects eligible for funding appear to be those not in widespread use. This would appear to preclude, for example, assistance to a utility-administered residential insulation project, since home in-

sulation is already in "widespread domestic commercial use". No equivalent condition is attached to supply increasing projects.

The bill would hamper conservation efforts rather than simply fail to promote them. This is true because the bill would result primarily in the allocation, not creation of capital. The EIA's loan funds would, in large part, be raised in the private capital market. Its guarantees would make projects it assists financially more attractive to private capital than conservation projects not backed by Federal guarantees. Thus, both its loans and its guarantees will siphon private capital away from conservation projects which might have been able to obtain private financing in the absence of EIA operations.

The choice of projects to receive financial assistance, and the form of assistance, ought to be based upon reasonable forecasts of the degree to which each project will advance the goal of independence per dollar of assistance accorded it. We believe that many initiatives in the direction of conservation hold the promise of moving the country farther down the road toward energy independence per dollar spent than do most supply increasing options.

In addition, the bill is underlaid by some assumptions regarding national policy which are by no means settled. Its predilection toward nuclear power generation is the most obvious example. Another is seen in its willingness to give the Government a large quasi-commercial interest in energy supplies which would be in competition with imported crude oil. Since the bill does nothing to limit imports directly, the underlying assumption appears to be that world crude prices will stay high enough to insure the profitability of the EIA's investments in alternative domestic supplies. Thus, the Government would have a financial interest in keeping world crude prices artificially high. We believe that legislation regarding financial support for synthetic fuels and other energy development should be coordinated in a systematic framework which includes all the likely costs associated with development and detail on the mix, number, and size of plants, and types of financial support needed for each. Specifically, adequate financing for synthetic fuels commercialization requires further information, analysis, and evaluation of many factors, particularly the arrangements for subsidies or price supports which may be necessary to make synthetic fuels competitive. Subsidies or price supports in turn raise the question of Government energy pricing policy. For example, oil and gas prices are being held down by regulations while it appears that it would be necessary to subsidize higher cost synthetic fuels. While legislation on energy development need not be comprehensive, it should seem obvious that a balanced and consistent energy strategy can provide a useful framework within which individual proposals can be evaluated.

SYNTHETIC FUELS REPORT

Our March 1976 report discussed an Administration proposal to authorize ERDA to provide up to $6 billion in loan guarantees for, among other things, commercial demonstration facilities for the production of synthetic fuels. To encourage industry to participate in synthetic fuels commercial demonstration programs the Administration recommended Government incentives consisting of loan guarantees, price supports, and construction grants.

Because of time constraints we did not evaluate the pros and cons of the various forms of Federal assistance considered by the Administration in arriving at its recommendation in that report. We did note, however, that important policy and judgmental questions were involved in arriving at the recommendations. A different emphasis on certain considerations such as impact on the budget, degree to which an alternative preserves and enhances competition, ability to achieve program goals, and extent of Federal involvement in management of operations—could conceivably lead to a different choice of alternative forms of assistance.

We stated our view that the Congress should consider awaiting further studies which ERDA expects to complete in July 1976 before approving any legislation. The studies should provide better information on the scope and magnitude of Federal assistance needed to carry out the programs, including better information on the type and number of plants needed.

ONGOING GAO WORK

GAO has undertaken a review which focuses on technologies that have demonstrated technical feasibility but which do seem to have impediments to full commercialization. These impediments are caused by a variety of non-technical reasons such as financial, environmental, and regulatory. The technologies considered are synthetic fuels, solar and geothermal energy, enhanced oil and natural gas recovery and certain conservation measures. Within this framework we will first address future supply/demand balances to the year 2000 and consider the probable roles of each of these technologies. We will attempt to determine the current status of each of the technologies and the current impediments to commercialization as well as the pros and cons of various Government options to stimulate financing activity. The options will cover such mechanisms as direct loans, loan guarantees, price guarantees, tax incentives and Government ownership.

We will then attempt to evaluate what priorities the Government should attach to the various technological options for the purpose of allocating funds or guarantees. In this section we will consider various social and economic goals such as obtaining the most energy at least cost, the maintenance of a competitive, environment, economies of scale, tradeoffs between first and second generation technologies and the implications of on-budget and off-budget financing. As a conclusion, we will attempt to specify legislative or policy approaches would, in our judgment, allow the most consistent and systematic consideration of Government role in financing energy commercialization efforts. We will also identify key tradeoffs in this area between the supply and conservation options considered in our report.

As you can see, Mr. Chairman, there are matters requiring closer examination regarding the scope and magnitude of Federal financial support for synthetic fuel and other forms of energy development. We hope that our further study will provide some useful insights on these matters. We plan to complete our study in mid-summer which is around the same general time frame that ERDA plans to complete its follow-up studies on synthetic fuels.

I want to emphasize that our study not only addresses the fundamental question of whether early commercialization of synthetic fuel technology should be pursued as aggressively as the Administration proposed but also the broader question of how this country can best provide for its future energy needs.

In summary, we are suggesting that information which should be available from ERDA and GAO this summer should be helpful to the Congress as it proceeds toward final legislative action on H.R. 12112 or any of the other bills currently in Congress dealing with the Federal financial support for construction costs, price supports, and initial costs to State and local governments.

Mr. Chairman, this concludes my prepared statement. We will be glad to respond to questions.

INEXPENSIVE NEW SOLAR COLLECTOR

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, a recent issue of Professional Engineer brings to public attention a startling new development in the field of solar heating—a simplified collector which can be built now at a cost of approximately 80 cents per square foot. This is far below current costs for other collectors which are in the $8 to $20 per square foot range. The significance of this development is that it reduces tremendously the cost of one of the largest components in a solar heating system and serves to make solar heating even more clearly competitive with existing conventional systems. This is a promising occurrence, although according to the article, politics and professional jealousies have slowed further development of the system. At this point I would like to bring the article to the attention of my colleagues:

SPACE AGENCY TOUTS 50 CENTS-PER-SQUARE-FOOT SOLAR COLLECTOR, YET WORK IS SLOW

Engineers at National Aeronautics and Space Administration's Marshall Space Flight Center (MSFC) may have come up with just the kind of technical development needed to spur a breakthrough and turn around commercial feasibility of solar heating. Nevertheless, variety of problems typical of those confronting new energy conservation technologies have slowed work on promising invention—a hot air solar collector producible at stunningly low cost. Consisting of only three parts—a rigid, cast urethane structure, a metal collector plate, and transparent glass cover—collector's desirability centers around its low weight, very low fabrication cost, easy assembly, and potential for retrofit on existing buildings. Its inventors say it requires less power and presents fewer problems (such as leakage and corrosion) than widely-used water system counterparts. Preliminary tests show it to be at least as efficient as—or more efficient than—other collectors on market. Collector's "single disadvantage" is said to be its greater bulk.

Recent NASA report notes that "These simplified collectors could be produced now for roughly 80 cents per square foot. Cost could be further reduced by (making the) panel substantially thinner . . . these collectors could be produced at under 50 cents per foot, unassembeld." At well under $10 to $20 cost of currently available collectors, NASA's progress would be expected to generate widespread attention and hastened development and testing.

MANPOWER, POLITICS, PROFESSIONAL JEALOUSIES STALL LOW-COST COLLECTOR WORK

But for months, no additional units have been built and low-cost hot air collector has been scarcely noticed outside MSFC by federal government solar developers and planners. Some claim it has not even been given due notice at MSFC. NASA's Earl P. Herndon and Kenneth G. Anthony first conceived collector design early last year and built two units in May of 1975. After testing last summer, NASA issued special "tech brief"—with distribution of about 20,000—noting collector's advantages and basic configuration. MSFC representatives say that public response to that notice has been excellent. Even so, when PE magazine contacted key federal energy agency officials in Washington, few had heard anything about that MSFC development. Though several scoffed at projected cost estimates, NASA officials vehe-

mently attest to close scrutinizing of all tech briefs. One MSFC spokesman bluntly said, "If it's issued as a tech brief, you can take it pretty much for gospel."

Combination of factors have contributed to delay in promising project. Part of the problem may have developed when NASA's vendor removed from commercial market particular foam used for collector and various space program applications; some at NASA point to search for substitute material as reason for delay in building more units. Yet others at MSFC closely involved with project deny that materials replacement was important factor. Instead, they and others at NASA headquarters claim manpower to put together new collectors at MSFC was diverted—to efforts in assisting Energy Research and Development Administration carry out commercial demonstration of solar heating and cooling. MSFC engineers have privately asserted that "So far there's been just a lot of politics . . . and professional jealousies. We just need a little money and a little time." Frustrated, one of collector's inventors admits he nearly gave up on project over failure to get personnel to construct additional units needed to verify previous test results and see how collectors performed in array.

Whatever real reason for holdup, NASA engineers now indicate they expect to return to work soon on assembly of six additional units. Copies of original tech brief #75–10301 are available on request from Technology Utilization Office, NASA Code KT, Washington, D.C. 20546.

BIOMEDICAL RESEARCH FOR THE ELDERLY

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, at the National Council of Senior Citizens Convention in Chicago on June 4, Dr. Robert Butler, the new Director of the National Institute on Aging, gave an extremely perceptive address on the need for biomedical research for the elderly.

The House Aging Committee's Subcommittee on Health and Long-Term Care, which I have the privilege of chairing, is very interested in this critical area. By determining the causes of diseases, long-term disabilities may be able to be stopped before they occur. Yet only 4 cents of our health care dollar is spent on research.

Our colleagues will be interested in Dr. Butler's address:

ADDRESS BY DR. ROBERT N. BUTLER

The existence of the new National Institute on Aging is a tribute to the dedication of many in the field of aging including the National Council of Senior Citizens. It is a particular pleasure to be here and to be speaking to this group where I have so many friends. For a change, I don't have to begin my talk by exhorting my audience to take a stand on behalf of older people. Everyone here probably already knows:

That there are 22 million Americans who are over 65;

That each and everyone of us is or potentially will be old;

That older people have some very special problems which are all the more critical if you happen to be a member of a minority—black, Spanish, or Asian American; or

That if you are a woman you are destined to an average of 10 to 11 years of being widowed.

I don't have to remind this group:

That approximately one-third of all older Americans are either below or hover at the poverty line;

That the average single older person has approximately $75 a week on which to live;

That poverty among older people is a poverty that came as a consequence of growing old;

And, that poor older people are older people that grew poor, as well as poor people who have grown older.

On the other hand, maybe you've forgotten a few facts such as:

That one-third of all the income that older people bring in they bring in through their own work and that is, despite the prejudice and the bias that exists against them for continuing in their work and for employment opportunities. Prejudice against old people usually begins at age 45.—or that old people often work under very humiliating circumstances—doing work which they often are forced not to report on their income tax just to survive.

Perhaps you've forgotten that:

Malnutrition, although somewhat common among older persons, is not the result of poverty alone;

But that loneliness plays its part and that lonely people may become less interested in preparing food, either out of their grief and loneliness or out of their discomfort;

And, that doctors often find themselves admitting such a person to a hospital with what gets referred to very easily as "senility," but is simply a function of inadequate food supply to the brain.

We agree that Medicare has gone a long way in aiding our older people and that it is an important, vital contribution to the 22 million older Americans. But it has its limits. It was set up as though older people are younger people and that their needs are the same as those of younger people. For example, there are no provisions, or inadequate provisions, for those things old people need such as regular check ups, foot care, dental care, hearing aids, glasses, eye checks, or even for long-term care. And finally we may remind ourselves that the reason this has happened is a part of the mysterious denial of the realities of old age and death that so many in this country share.

Last year in America we spent some $117 billion on health care. A substantial amount, perhaps as much as one-half, was in the area of chronic disease. Two-thirds of every dollar that the Federal Government expended in health was spent on the population over 65 years of age; yet, we do not have a medical school in the United States where medical students are required on a routine, regular basis to have training in a nursing home. This is true even though at the moment we now have more patients in nursing homes than we do in American hospitals. In our 23,000 nursing homes we have 1.2 million people. Furthermore, there is virtually no research going on in these homes; there is no training; and there are even some genuine questions as to the quality of services which are delivered within some of these homes. At least one-half of those 23,000 nursing homes cannot even pass basic fire safety inspection; one-half cannot pass basic sanitation inspection—facts that are all well documented in the recent series of reports which have come from the U.S. Senate Special Committee on Aging.

In the field of mental health, we also have many grave problems. It is often striking for people to learn for the first time that for a variety of reasons, 25 percent of all of the suicides which are committed in the United States are accomplished by people over 65 years of age. And, among the reasons for this is the absence of an adequate, effective network of mental health services with people to sit and listen, to be attentive to and to help other people resolve their many difficulties, fears, and concerns.

We fail, all too frequently, to recognize a reversible brain syndrome and hastily label it as senility, confusion, forgetfulness, or problems with attention or concentration. We now know that there are approximately 100, if not more, causes of this kind of so-called "senility." They range from malnutrition, to excessive medication, to unrecognized congestive heart failure, to walking pneumonia, or even to anemia which affects as many as one-fourth of older people.

Well—by now I expect that you are saying to yourselves—what is this man from a research institution doing standing up here reviewing the many social ills that affect these people. We know that these ills exist and we have all lobbied for more money to go for social services and health care delivery programs; maybe even at the expense of research.

Well, I'm here to share with you what I think is fundamental to all good health care and social services and that is research—biomedical, behavioral and social research.

It is not uncommon today that the criticism of our health care system extends to a questioning of the value of continuing research. This questioning is not simply anti-intellectual; but, rather part of a real national anxiety to commit public resources toward immediate social ends, rather than a long-term investment in acquiring useful information. This demand for some justification in economic terms of the return o research is fair, but not always easy to satisfy. How much has the discovery of penicillin really saved us? It's tough to say.

Today the practice of medicine and, in fact, our health care system is still based a good deal on trial and error; without research it would be medieval. We might still be relying on leeches and the purge to protect us from periodic outbreaks of plagues and we'd have to endure catastrophe with no relief from anxiety and pain.

The ultimate purpose of research is the same as social welfare and that is to improve the well being of man—in the case of research it is done by promoting a greater understanding of the nature of life. At the most basic level, we gather knowledge about the functioning of life-giving systems and about the processes of growth, development and decline. Combining and developing this basic information leads to ways to understanding, preventing, and curing disease and disability.

Who here can ever forget that Memorial Day not only marks the real beginning of the summer but used to also mark the long summer vigil of waiting for polio to strike? Who here can't recall the cadence of the iron lung thumping in tribute to the polio virus, or the first signs of scarlet fever? The 1918 influenza epidemic? All the children born deaf and retarded because of German Measles? Or the cold sweats of malaria? All of these are no longer with us. We don't even think of them often enough to pay tribute to their absence. It is one of the real ironies of a research discovery that once it becomes part of daily living we tend to forget its origins.

On the horizon are still more advances. For example, new knowledge gained concerning the immune system, the body's defense against disease, holds extraordinary promise of revealing secrets about the body's development of diseases such as cancer, heart disease and perhaps you and I may be less weakened by viruses as we grow older because we may be able to take medications, things that will enhance our immune responses. New knowledge about bacterial viruses could mean an end to hepatitis. A new vaccine would end pneumonia or influenza. And on and on. . . .

Recently, the President's Biomedical and Behavioral Research Panel reported to the President that they believed that human beings have within their reach the capacity to

control or prevent human disease. Furthermore, the panel said that, in their view, there does not appear to be *any* "impenetrable" or "incomprehensible" diseases, although every effort will be required to bring the objective of overcoming diseases into reality.

Our lives are influenced every day by mass social actions such as the fluoridation of water, mandatory sanitation and pollution control practices, all of which have resulted from information gotten in basic laboratory studies. Individuals can also participate directly in the application of research to health when they change life styles by improving eating habits and stopping smoking.

Now everyone here knows all too well about the "negative image problem" we have in the field of aging. Well, it's no less true in our medical schools and research institutions. Unbelievably, we do not have geriatric medicine in the United States. There is no more greater need for research than in the field of aging. The creation of the National Institute on Aging by the Congress was the recognition of this. Nowhere is it stated more effectively than in our authorizing legislation:

1. That the study of the aging process, the one biological condition common to all, had not received research support commensurate with its effects on the lives of every individual;

2. That, in addition to the physical infirmities resulting from advanced age, the economic, social, and psychological factors associated with aging operate to exclude millions of older Americans from the full life and the place in our society to which their years of service and experience entitle them;

3. That recent research efforts point the way toward alleviation of the problems of old age by extending the healthy middle years of life;

4. That there was no American institution that had undertaken comprehensive systematic and intensive studies of the biomedical and behavioral aspects of aging and the related training of necessary personnel.

5. That the establishment of a National Institute on Aging within the National Institutes of Health would meet the need for such an institution.

Because it is a broad mandate, the NIA finds itself special among the 11 institutes and four Divisions of the National Institutes of Health. That congressional law says what I personally have always believed and that is that the study of aging is not just the study of decline—loss—and decrement which does indeed accompany aging and is found in later years; and it is not just the study of disabilities or diseases which may in part be due to social adversities; but it is the study of the normal processes of development—continuing growth and creativity, judgment and wisdom—which are fundamental to life and about which we know precious little. Indeed, a major objective of the Institute's research is to examine the variety of factors—biological, social, and psychological—which constitute the aging process—and its debilitating accompaniment—and then to use this knowledge to prevent, modify, or reverse the latter so that quality of life is better. I can't emphasize that strongly enough. We are interested in improving the quality of life by extending the healthy productive, vigorous middle years, not simply in extending the length of life. And, the diseases or the social ills which interfere with this are our concern, as well as yours.

What contributions can the NIA make? Let us take the issue of retirement. It's a good example of something that appears to be far from research. The subject is becoming increasingly prominent; the NCSC has testified to that. In a short time, the Supreme Court is going to be deciding on the constitutionality of a Massachusetts "involuntary" retirement statute. In that ruling, the court may also be deciding much more than the fate of a uniformed police officer, named Colonel Murgia. It may be deciding on the job prospects of countless others who are subject or potentially subject to mandatory retirement. While groups like NCSC fight the battle in the public arena and in the halls of government, I think we at the Institute must collect the necessary physiological, psychological, and social assessment data necessary to create retirement test batteries. We can provide a set of scientifically sound standards of health and functioning which can be used to measure whether or not a person does or does not have the capacity to continue working.

Another area of mutual concern to us is the misuse of drugs which frequently victimize the elderly. We as scientists need to learn more about drugs and how they react in older people. You must educate yourselves, your friends, and your Congress as to how severe this problem is. It used to amaze me when people would bring their medicine chest in to me at my request. I ask them where they got the drugs. And, you know, they told me they got them from their next door neighbor. Some people started taking a particular medicine as much as five years ago and it seemed to do them some good then. Now, five years later, it may not have any real application; a fact of which they may be quite unaware. What is more important is the fact that their own physician may be quite unaware of the possible bad reactions that drug may be having with others you may be taking or that your body is now different in the way it reacts to those drugs you received when you were younger.

For example: an older woman, for some reason not an older man, receiving a certain anticoagulant, has a greater likelihood of untoward bleeding reactions. We are not sure why.

Some of the tranquilizers which in a younger person may have a calming effect may create a dangerous drowsiness in an older person.

The barbiturates which we think of as being sedatives or hypnotics to help people sleep at night may create the opposite reactions in older people.

Certain tranquilizers given to old people can even create a terrifying condition which doctors call tardive dyskinesia. The horror of this can be best demonstrated by your imagining yourself as having no control over your own mouth area and tongue reaching out as though it were trying to catch a fly. This condition is extremely hard to treat and is much more common with old age and in women who have been on certain types of tranquilizers over a long period of time.

I am not trying to frighten you. Obviously drugs have a very important place in our health but we do tend to overuse them, to misuse them, and to not be properly knowledgeable about their relationship to age. Our doctors learn from textbooks which do not even have age in their index. It will be very important for our new Institute to work to develop a better understanding of drugs.

If indeed we are on the threshold of understanding the mysteries of disease, as predicted by the President's Biomedical Research Panel, then can we do less than pry open the many secrets of aging and apply them to making the later years vigorous and dignified? NIA must push ahead to explore aging at the molecular and cellular level. We need to understand the age related changes in connective tissue which occur in diseases such as arthritis. We must study not only basic biological mechanisms of aging but we must force investigative medicine to the center stage. We need studies of the sleep disturbances which occur with increasing frequency in old age.

We need studies of the relationship of the body's changing tolerance of sugar to the development of diabetes. We can not ignore the personal and social aspects of aging such as why do we fear aging? Why is society so negative toward old people?

This new Institute must draw together all three aproaches: biologically, investigative medicine, and the social and psychological sciences to understand certain questions such as why do women live eight years longer than men? Is it genetic? Hormonal? Stress related? Or what? Stop for a moment to imagine the personal and social consequences of equalizing the life spans of the sexes.

We want to collaborate with other Institutes, for example the National Heart and Lung Institute. I visited with Max Serchuk recently in Miami. There in the store windows of South Miami, where the tourist industry calls old people and nursing homes eye sores, I saw signs that read "Blood Pressure Taken $1.00." This is a real ripoff. It's a crime. It scares people and it preys on their fears and anxieties. On top of that, you don't even have a guarantee that the person taking your blood pressure knows how to do it correctly, much less interpret it correctly. When I came back to NIH, I talked to the people in the National Heart and Lung Institute and they said they could extend their huge high blood pressure education program to South Miami. They could work with local officials and voluntary organizations to do this the right way. We can have a free high blood pressure detection program, by people who are motivated by concern and not the desire for profit.

The NIA can also collaborate with other non-health oriented agencies such as NASA, the space agency. The genius which put men on the moon and which created flying belts for astronauts can adopt their technology to prosthetics to assist older people, severely disabled by stroke, arthritis, and muscular weakness.

Research is necessary to improve the welfare of older Americans. Dollars expended for research do eventually find their way into the health care system and their expression in the form of social services for older Americans. At the same time, let me stress the need for continuing social roles in society for older people and the importance of their continued participation in groups doing what you are doing.

Let me close by sharing with you an idea that we have for the Aging Institute. I have high hopes that NIA will be able to develop a guest worker program for older people whom we feel have many contributions to make. The program could include emeritster to his men under fire was reserved for workers, and writers who could offer us assistance not only in developing a program which speaks to the needs *of* older Americans, but does so with the special perspective that only their years of experience can bring.

THE CHAPLAINCY AND THE BICENTENNIAL

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, on May 3 of this year, Rabbi Solomon Schiff delivered a notable Bicentennial address at the first meeting of the Florida Chaplains Association in Orlando, Fla. In recognition of this historical meeting, the Honorable Reubin Askew issued a proclamation designating that week as Chaplains Appreciation Days. The address, "The Chaplaincy and the Bicentennial," covers the significant history of the growing incorporation of chaplaincies of different denominations in the armed services and recently, in hospitals and Federal pen-

itentiaries. I believe this address will be of interest to our colleagues and to all those who read this RECORD. I request permission to include it at this point.

THE CHAPLAINCY AND THE BICENTENNIAL

(By Rabbi Solomon Schiff, director of chaplaincy, Greater Miami Jewish Federation)

It is extremely historical that this first regularly scheduled meeting of the Florida Chaplains Association be convened during the bicentennial year of our nation's founding. For Chaplaincy has been a continuous thread interwoven in the fabric of the American tapestry. From a hanging to Hiroshima, from Valley Forge to Vietnam, the spiritual input of chaplains has been a source of ongoing strength to these United States. Recognizing this historical meeting, the Governor of our State of Florida, The Honorable Reubin O'D Askew has issued a proclamation designating this very week as Chaplains Appreciation Days. In his words, "the Chaplaincy has been an integral part of the American fabric since the very founding of our nation, bringing spiritual guidance, succor and comfort to countless numbers of troubled people throughout these 200 years comprising the history of our nation."

It is therefore most fitting I believe, to dwell for a few moments tracing the Institution of Chaplaincy during these past two centuries.

I referred earlier to a hanging. This seems to be one of the earliest recorded events of a Chaplain's service. On June 28, 1776, the snare drums rolled darkly for Sgt. Thomas Hickey. His buttons were slashed from his uniform and the red epaulet from his right shoulder removed. As a crowd of thousands gathered in the field just off New York's bowery lane to watch Sgt. Hickey die on the gallows, the chaplain took him by the hand under the gallows and recited a prayer with him, with tears flowing off the condemned man's face. The Chaplain at that time gave aid and comfort to a man about to lose his life. This same kind of solace and strength has been offered by chaplains throughout the centuries.

The Chaplaincies of the United States Government date from the first beginnings of our country. It was created by an act of Congress in 1775 on recommendation of General George Washington. In 1791, the office of Chaplaincy was recognized as an integral part of the Armed Forces. In 1832, Chaplains were required to be ordained ministers accredited by an official ecclesiastical body. In 1848 the number was raised to 20 and the system of post chaplains instituted. The first Roman Catholic Chaplain was appointed in 1846 and the first Jewish Chaplain in 1862.

The soldiers who served in the revolutionary army broadened their outlook with reference to both their own denomination and their political allegiance. They came in contact with men of different religious bodies from different parts of the country and gained respect for them. They increasingly felt that they were fighting not for their colony only, but for the United Colonies, which were to form a new nation. Massachusetts Congregationalists, Rhode Island Baptists, New York Episcopalians and Dutch Reformed, New Jersey Presbyterians, Pennsylvania members of many small Protestant sects with a continental background, Maryland Roman Catholics, and a scattering of Jews from the seaboard cities, to give a few examples, met in the same camps and acquired a new idea of the need and possibility of religious tolerance.

Such an intermingling of men of different religious faiths and backgrounds had not taken place before in America, except in a few of the larger cities and in three or four small colleges that had broken away from rather narrow local and denominational antecedents.

The contribution of the Chaplains to these results was important. Detached from their own local church they developed a sense of responsibility for all the men in their regiment and rendered a large service. Whatever may be the other effects of serving as a Chaplain, there can be no doubt that it tends to broaden a man's outlook and to break down narrow denominationalism. In some states, such as Virginia, action was early taken opening the regimental chaplaincies which had been established in 1758, at the request of Colonel George Washington, not only to members of the Establishment, but to other religious bodies.

As far as a Continental, or Federal, as distinct from the colonial system of Chaplains is concerned, the legal origin of the Corps of Chaplains is found in the Resolutions of the Continental Congress in July, 1775, providing that their pay be $20.00 a month, the same as then provided for Captains. The following year Chaplains were specifically authorized by General Washington, who was emphatic in his belief that religion and public worship were essential to morale, both in civil and military life.

Prayer and worship played an important role in the early part of our nation. The official minutes of the first session of the Continental Congress in 1774 show a proposal that the sessions be opened with prayer. The person nominated to deliver the prayer was the Reverend Jacob Duche, an Anglican, who two years later was formally elected Chaplain of Congress. This initiation of Congressional Chaplaincies was somewhat inauspicious in that Duche resigned shortly after his election, having, in the words of John Adams, "turned out an apostate and traitor" who urged Washington to call for rescission of "the hasty and ill-advised Declaration of Independence." Fortunately his successors were ardent patriots.

The first proclamation for a day of thanksgiving was issued by Congress in November, 1777, setting aside December 18th for "solemn thanksgiving and praise." It called upon all Americans to "join the pentinent confession of their manifold sins," and to offer "their humble and earnest supplication that it may please God through the merits of Jesus Christ, mercifully to forgive and blot them out of remembrance." This proclamation is also noticeable for its Trinitarian statement, almost always omitted in later Federal and State proclamations so as to make them equally acceptable to all Christians, Jews, and other theists.

The Federal program for Chaplaincies in Federal prisons is conducted by the Federal Bureau of Prisons. John Edgar Hoover, the late Director of the Federal Bureau of Investigation and the man who most Americans would probably consider the best qualified person in the country to speak with authority on the problem of crime and its prevention, was strongly of the opinion that religious affiliation, training and practice constitute a most important single factor in crime prevention.

As a result of convictions expressed by Mr. Hoover and apparently shared in general by his colleagues, the Department of Justice provides both Catholic and Protestant chaplains to all Federal penitentiaries and reformatories. In each of the smaller institutions there is at least one chaplain. Jewish Chaplaincy services are provided on a part-time basis. At the present time, there are 57 full-time chaplains and 150 contract personnel and more than 2000 volunteers in prison chaplaincy programs.

The Government's attitude toward religion and religious denominations as shown in the armed forces is characteristic of the fundamental American position. It is sympathetic with the cause of religion, appreciates its significance in individual and national life and encourages provisions for worship in all branches of military service, while at the same time retaining an impartial attitude toward various denominations. An individual religious creed is not considered in matters of enlistment and promotion. The only recognition of creedal differences is the attempt to distribute chaplaincies fairly and the custom, for the guidance of chaplains, of having their identification tag worn by a serviceman to show whether he is Catholic, Jewish or Protestant, and the indication of this fact on admission blanks to Military hospitals.

As mentioned earlier, the Chaplaincy had its inception during the Revolutionary War when General Washington ordered the carrying out of the purpose of the Congress and established the program in 1776. In 1791, two years after the organization of the American army, the office of chaplain received actual recognition as an integral part of the armed forces. There was then only one chaplain, but the number was increased from time to time. Not until Samuel L. Southard became secretary of the navy in 1823 was a definite rule passed, requiring chaplains to be accredited ordained ministers holding a definite relation to some ecclesiastical body—a plan formally followed by the army in 1861–62.

In 1838 when the office was placed on a fairly firm basis, the number of chaplains was increased to 20, and the system of post chaplains was adopted. The selection in each case was left to the army post council of administration subject to the approval of the secretary of war.

The first Roman Catholic Priest for Army service was appointed in 1846 by President Polk during the Mexican War. Only three Catholics had been named to 1856. Since then Catholic representation in the Chaplaincy has steadily increased. In the Civil War there were in all about 100 Catholic Priests, mostly serving at first with state militia, but later regularly commissioned by the Federal Government. In the Spanish War there were 15 regularly appointed, in addition to many more with militia regiments. In World War I there were several hundred. Before the outbreak of World War II, there were 31 regular Catholic Chaplains in the Army, 19 in the Navy and many more in the National Guard and on the reserve list.

Jewish Chaplains were first authorized during the Civil War. At the out-break of the War, the regular army was extremely small. The War had to be fought by volunteer regiments which were raised throughout the Northern States. These regiments were governed by special laws set by Congress.

One of these laws passed by Congress in July 1861 required that every regimental Chaplain be appointed by the regimental commander "on the vote of the field officers and company commanders," and that he be "a regularly ordained minister of some Christian denomination." The 65th regiment of the 5th Pennsylvania Cavalry, popularly known as "Cameron's Dragoons," unaware of the new law, elected as their chaplain a young Philadelphia Hebrew teacher named Michael Allen. When this was discovered the appointment was disallowed since Mr. Allen was not a member of a Christian denomination, and not an ordained minister. Colonel Max Einstein, a man of strong metal who was the head of the regiment elected another Jew, but this time an ordained Rabbi. The new selection was Rabbi Arnold Fishel of the historic Shearith Israel Congregation of New York City. Fishel immediately applied to the War Department for a Commission, but it obviously had to be rejected.

Now the question of the Jewish Chaplaincy was indeed a public issue. Would the Jew accept second class status in the military services? This was the first time in American history that the Government was compelled to decide on an issue of statutory law whether Judaism was an American faith on an equal level with Christianity.

A wave of protest was aroused throughout

the North in the wake of the rejection of Rabbi Fishel's application for a commission as Chaplain. The editors of Jewish periodicals wrote strong editorials demanding equal treatment of Jews before the law and Rabbis made frequent reference to the question in their sermons.

What is most fascinating about this incident is that petitions were drawn up signed by many Christians demanding the law be changed to allow the commissioning of Jewish Chaplains. Seven hundred Christians signed a petition which was circulated in Baltimore, and 38 members of the Maryland legislature sent a resolution to their Congressman in Washington. There were only three Jews in Bangor, Maine, but 200 non-Jews joined them urging the Federal Government to amend the discriminatory laws.

Rabbi Fishel was appointed by the Jewish community to meet with President Abraham Lincoln to bring this inequity to his attention. On December 11, 1861, Rabbi Fishel met with Mr. Lincoln and brought the concern of this inequity to his attention. President Lincoln scrutinized the document which Rabbi Fishel had brought to him and in a few days wrote to Rabbi Fishel as follows: My Dear Sir, I find there are several particulars in which the present law in regard to Chaplains is supposed to be deficient, all of which I now desire presenting to the appropriate committee of Congress. I shall try to have a new law broad enough to cover what is desired by you in behalf of the Israelites. Yours truly, A. Lincoln.

As a result of the President bringing this matter to the attention of Congress, the law was amended by an Act passed July 17, 1862, which removed the requirement that Chaplains must be Christian. The new Act stated merely "that no person shall be appointed a Chaplain in the United States Army who is not a regularly ordained Minister of some religious denomination, and who does not present testimonials of his good standing as such minister, with a recommendation for his appointment as an Army Chaplain from some authorized ecclesiastical body, or not less than five accredited ministers belonging to said denomination."

Finally it was possible for a Rabbi to be appointed as a Chaplain. One month after the amended law the Board of Ministers of the Hebrew Congregations of Philadelphia sent a petition to President Lincoln appealing for the appointment of a Jewish Chaplain for the Philadelphia Military hospitals. President Lincoln sent a message to the board stating that he would "Appoint a Chaplain of your faith if the board will designate a proper person for the purpose."

The Rabbis agreed to nominate Jacob Frankel of Rodeph Shalom Congregation and his commission arrived in Philadelphia on September 18, 1862. Rev. Frankel, the first Jewish Chaplain in the American Military forces was also the first Jewish Chaplain in any country. Not until the outbreak of the Franco-Prussian War did a German rabbi serve with a European army, and the British army waited until the First World War to award a chaplaincy appointment to a rabbi.

The appointment of Rev. Frankel was to a hospital chaplaincy which was new, not only for the Jewish community, but for America as well. President Lincoln had instituted the position at the urging of such men as Archbishop John Hughes of New York. There were six military hospials in the city, and the chaplain made rounds of the various hospitals assisted by other colleagues. From the available recollections of the time, it would seem that Frankel distributed inexpensive gifts to the wounded men, sang for them, wrote letters to their families, and tried as best he could to encourage them. The honor of being the first Jewish chaplain to serve with fighting forces and to minister to his men under fire was reserved for Rabbi Ferdinand Sarner who was elected to his position with the 54th New York Volunteer Regiment on April 10, 1863.

One of the most powerful examples of the influence of chaplains on others, was the story of the four chaplains who gave their life jackets to soldiers on the troop transport ship called the Dorchester. The Dorchester was torpedoed in the North Atlantic on February 3, 1943. A Rabbi, a Priest and two Protestant Ministers gave up their life jackets so that other men could survive. From the reports given by witnesses, the four chaplains were last seen standing with locked arms each uttering his own prayer. This has served as one of the most inspiring stories that came out of World War II.

When Selective Service was instituted in 1940 there was not a single Jewish Chaplain in uniform in any branch of the service. By the end of World War II, 311 Jewish Chaplains had served. For every chaplain who wore the uniform, approximately two volunteers were disqualified for physical and other reasons. This means that almost 1000 rabbis offered their services and were processed by the National Jewish Welfare Board's Commission on Jewish Chaplaincy. The Jewish Welfare Board is an organization that has been recognized by the United States Government as the representative body to provide chaplains for the military services, as well as the Veterans Administration hospitals. This organization mobilized the total American Rabbinate including the three national rabbinical organizations to assist in making chaplains available through their seminaries. The three Rabbinical bodies include the Central Conference of American Rabbis, (CCAR-Reform); the Rabbinical Assembly (RA-Conservative); and the Rabbinical Council of America (RCA-Orthodox).

The response by the American Jewish community during the various wars was extremely meaningful. Since the Korean conflict an additional 356 rabbis have been recruited. This phenomenal response was made possible when the National Jewish Welfare Board, after Pearl Harbor, convened the leadership of the National Rabbinical bodies to reorganize its Chaplains Committee.

When President Lincoln signed the Act of Congress on July 17, 1862 which enabled Rabbis to serve as chaplains, the recruitment was made that volunteers for the chaplaincy be certified as clergymen in good standing by a denominational agency. In the Jewish community it was the National Jewish Welfare Board through its chaplains committee, which served as "Ecclesiastical Endorsing" Agency since World War I. The working together of the various representing bodies has had a great influence on the total American Jewish scene. Since the Chaplains serve the various branches of Judaism there had to develop a sense of esprit de corps among the chaplains that cut across denominational lines. Various problems that have been arising from time to time in terms of religious requirements, rituals, etc., have brought the Jewish community together, especially the Rabbinate in helping to formulate a common working ground by which chaplains of the various branches of Judaism can work together in harmony complementing and assisting one another.

The role of the Chaplain has always been a subject of much debate. A broad spectrum of definitions, descriptions and opinions of the chaplain is available through the media—movies, television, popular periodicals, serious periodicals, serious literature, and sourceless stories.

For example, the chaplain represented as a dolt is no stranger today. He is often pictured as stumbling, bumbling and totally ineffectual. M.A.S.H., Catch 22 and the like reveal the chaplain as a holy joe of pious platitudes. Irrelevancy personified! The chaplain of "tell it to the chaplain" fame is often the impression people have of him. Equally well publicized is the "locker room liturgist"—the chaplain as recreation officer—the inspirational leader of fun and games. He arranges the golf tournaments, calls the bingo, negotiates tours, and generally provides a wholesome atmosphere for the people in his charge. The fact is that the chaplain is many things to many people. He is the crisis counselor, the confronter, the comforter, the counter-grouper, the sensitizer, the psychologist, the analyst, the therapist, the calm-downer, the social worker, and in a great number of cases, the winner of friends and influencer of people. He is the manager's Moses, leading the chosen people out of the bondage of unliberated egos to the land flowing with the milk and honey of interpersonal relations.

The question of Chaplaincy and its relationship to the Constitution has been raised from time to time. Generally speaking the prevalent opinion justifying Chaplaincy despite the fact that there exists a wall of separation between Church and State, is the fact that the American Constitution does not prohibit religion, but rather the imposition of religious doctrine. Chaplains in the armed forces may be necessary under the constitutional guarantee of freedom of conscience. A soldier drafted into the armed forces and sent to camp far from home is deprived of the opportunity to visit his house of worship. To the extent that such a deprivation is necessary to the overriding consideration of national defense, it is considered constitutional. So, too, much of the exemption that religion enjoys under tax laws may likewise be justified under the "free exercise" clause in the constitution.

It is interesting to note that the development of military chaplaincies in the United States has had a strong influence on the development of civilian chaplaincies. More and more we find civilian Chaplaincies being instituted in the various parts of the country. Government bodies such as state, county, and city have been instituting Chaplaincies in the various institutions in their charge. In a manual published recently on hospital chaplaincy by the American Hospital Association, it is noted that the direction of hospitals is to make Chaplaincies a part of its regular hospital care program. In a statement on hospital Chaplaincy which was approved by the American Hospital Association at its May 8, 1967 convention the organization states: "The American Hospital Association recognizes that Chaplaincy programs are a necessary part of the hospital's provision for total patient care, and that qualified Chaplains and adequate facilities as well as the support of the administration and medical staff, are essential in carrying out an effective ministry for patients". The various bodies representing Chaplaincies from the denominational standpoint include: The Association for Clinical Pastoral Education, Inc., The College of Chaplains of the American Protestant Hospital Association, The Liaison Committee on Jewish Chaplaincy for Boards of Rabbis, The National Association of Catholic Chaplains, working with the American Hospital Association.

In our own state of Florida much work has been done in recent times in trying to develop and expand Chaplaincy programs. A recent report submitted by the Chaplaincy Advisory Committee which was appointed by Governor Reuben O'D Askew has brought to light some of the strong needs for this expansion. The formation of the Florida Chaplains Association is a direct result of the concern of many Chaplains and interested people and is another example of the direction in which this movement is going. We gathered here, at this conference, are giving of our concern and interest to helping promote those ideals that will help bring that traditional historic strength of the Chaplain to bear on the many who are institutionalized in our state.

As we look forward to the next century of our nation's continued rendez-vous with greatness, we have the unshakable faith that our nation will continue its great progress in helping to make this land truly the land of the free and the home of the brave. In this great challenge, the spiritual strength which religion in general, and the Chaplaincy in particular, can offer will help bring about the success that all of us pray for. With God's help and our determination, we will meet this rendez-vous with greatness.

Credits for portions of the above go to: The Library of Congress; The Honorable Claude Pepper, U.S. Congressman, State of Florida; The Jewish Digest; Rabbi Dr. Bertram W. Korn, Past President, American Jewish Historical Society; Rabbi Aaron H. Blumenthal, Past Chairman, Commission of Jewish Chaplaincy, National Jewish Welfare Board; Navy Chaplains Bulletin, Special Bicentennial Issue; Church and State in America by Canon Anson Stokes; Church, State and Freedom by Leo Pfeffer; Manual on Hospital Chaplaincy by American Hospital Association; and Time Inc., Special 1776 Issue.

GUIDANCE AND COUNSELING FOR THE ELDERLY

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, together with 5 members of the Subcommittee on Health and Long-Term Care of the House Select Committee on Aging and 35 other House Members to date, I have introduced the "Older Persons Comprehensive Counseling Assistance Act of 1976," H.R. 12667, H.R. 14086, and H.R. 14087. This bill would amend the Older Americans Act and the Public Health Service Act in order to provide expanded counseling assistance to the elderly sick and disabled.

That this legislation is desperately needed can be seen by examining several important facts. First of all, in the United States today over 21,000,000 Americans, or approximately 10.3 percent of the entire population, is over the age of 65. These older Americans confront daily life in a society in which ageism—the attitudes and actions that relegate older persons to a secondary or inferior status—is an endemic aspect of life and in which the elderly are treated unfairly with respect to health care, employment, social, recreational, educational, and cultural needs. In fact, many of the problems faced by older persons are directly or indirectly related to the attitudes and behaviors of the rest of the Nation's population.

Frequently, as a result of these attitudes and behaviors, older persons come to perceive themselves as helpless, worthless, nonproductive, and dependent on society. These self-perceptions are reinforced by their concerns over health, fear of crime, fear of loneliness, finances, boredom, lack of independence, and being neglected and rejected by the young.

Depression is a major problem among aging Americans and the suicide rate of those over 65 is substantially higher than for other age groups. Finally, it is important that we realize that these problems will continue to become more and more widespread in the years to come as the percentage of the population that is over 65 increases and as changing social and economic patterns result in earlier retirement, thus accelerating the point at which Americans confront these problems.

The solution to many of these problems is to provide older persons with professional counselors and support personnel who are trained in human relationships and who have the skills and abilities to help older persons to see that they still do count and that they are capable of leading rich full lives. By participating in systematic, organized community counseling programs, older persons can develop new skills, behaviors and attitudes which will enable them to be as independent as possible and to lead meaningful lives in our communities and outside of our nursing homes.

In addition, professional counseling can help senior citizens with serious mental health concerns or with physical health problems which are compounded by emotional responses. The support and caring which counselors are trained to give bolsters the spirits, ends depressions, and gives motivation to recover by instilling the will to live.

Counseling can help those who are residing in or are leaving nursing homes and other types of living facilities to adjust. Residents need help in altering their own self-concepts, in terms of redeveloping a sense of independence and worth, and then in developing behaviors which can sustain them outside the facility. As for those leaving a residential facility, counselors are needed to follow-up and provide important after care.

Another area in which counseling can solve the problems facing the elderly is in the area of preretirement preparation for retirement. By providing comprehensive guidance and information concerning social, financial, emotional, and other aspects of retirement, counselors would bring the need for planning to awareness, assist individuals in structuring budgets and health plans which meet future needs, assist individuals in developing alternative vocational, avocational, and leisure interests, and thus prepare older persons for the problems that come with changing social and emotional environments.

The Older Persons Comprehensive Counseling Assistance Act of 1976 would make badly needed counseling more available to older Americans by authorizing an appropriation of $45,000,000 for the purpose of grants for the fiscal year ending September 30, 1977 and a like amount plus 7 per centum compounded for each of the succeeding 4 fiscal years. Those grants would be made by the Secretary of Health, Education, and Welfare, through the Administration on Aging, for distribution to State and area agencies on aging for support of agency counseling assistance programs for the elderly.

These programs would include initiation and development of counseling assistance for the elderly, preretirement counseling, career counseling, referral services to other health agencies, education and job placement, serving the special needs of those older persons who are disadvantaged or handicapped, and the providing of counseling to families of senior citizens. The bill also authorizes an additional $20,000,000 for the fiscal year ending September 30, 1977, and a like amount plus 7 per centum componded for each of the 4 succeeding fiscal years for the purpose of providing preservice and inservice training of professional counseling and support personnel. These funds would be granted to postsecondary education institutions for the training programs.

Finally, the bill would authorize an appropriation of $15,000,000 for the fiscal year ending September 30, 1977 and a like amount plus 7 per centum compounded for each of the succeeding 4 fiscal years for the purpose of a demonstration and evaluation program to be carried out by the Commissioner of the Administration on Aging. These funds would be granted to examine existing counseling for older persons and to develop pilot programs to improve the delivery systems and counseling approaches specifically designed for the elderly. The money would also be used for such programs as identifying more effective methods for the training and retraining of counseling personnel and finding more effective methods and integrating counseling services into already existing services for the elderly such as legal services, health and nursing care agencies, and recreation facilities.

In addition to these authorizations of appropriations, the bill also includes administrative requirements concerning the grants, the training programs, and the demonstration and evaluation program.

I would like to express my gratitude to the American Professional and Guidance Association for their help in preparing this important legislation.

The "Older Persons Comprehensive Counseling Assistance Act of 1976" would, if enacted, provide for the expansion of vital, systematic, organized community-based counseling assistance for our Nation's elderly sick and disabled. It goes beyond existing legislation which attempts to meet the needs of the elderly in aiming to rehabilitate them so that they may achieve dignity and self-respect rather than simply being concerned with health diagnoses and treatment at the least possible cost and effort. If we are genuinely concerned for our Nation's older citizens, we must act on that concern and we must enact this legislation. The lives of the elderly need not continue to be a daily existence of coping with massive problems of loneliness, health deficits, and social rejection at every turn.

MEMBERS OF CONGRESS IN SUPPORT OF MOROZ' LIBERTY AND SANITY

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, yesterday 76 House Members joined Representatives FENWICK, DODD, and myself in signing a letter to Soviet General Secretary Leonid Brezhnev, President Nikolai Podgorny and Ambassador Anatole Dobrynin urging the release of Soviet prisoner Valentyn Moroz.

Moroz is the symbol of the Ukrainian struggle for maintenance of a cultural identity against Russian domination. It was his authorship of essays, describing Moscow's plan to Russianize U.S.S.R. satellite Republics such as the Ukraine, which were labeled anti-Soviet propaganda and precipitated his 14-year prison sentence. He has spent 6 years in jail for the alleged crime of "anti-Soviet propaganda and agitation."

Our letter was prompted when we learned of Moroz' recent transfer to Moscow's Serbsky Institute of Forensic Psychiatry, a move we vehemently oppose because of its threat to Moroz' sanity.

I am appending the letter that was sent to the Russian leaders:

CONGRESS OF THE UNITED STATES,
Washington, D.C., June 6, 1976.

Hon. Anatole Dobrynin, Ambassador of the U.S.S.R.
Hon. Nikolai Podgorny, Chairman Presidium
Hon. Leonid Brezhnev, General Secretary, Central Committee of the Communist Party Soviet Union
Moscow, Russia

GENTLEMEN: We the undersigned Members of the United States Congress urge your compassionate intercession on behalf of Valentyn Moroz. We have been informed that he has been transferred to Moscow's Serbsky Institute of Forensic Psychiatry. As you undoubtedly know, millions of Americans, including those of Ukranian ancestry, have taken up the cause of Valentyn Moroz and want to urge the Soviet Union to allow him to accept the invitation extended by Harvard University to each at that institution.

In the spirit of the Helsinski agreement and for the purpose of demonstrating a desire to continue detente, we urge that Valentyn Moroz's sentence be commuted, and that he be permitted to leave the U.S.S.R. If medical attention is warranted, we assure you that it will be appropriately provided here in the United States. We believe you will be doing a great service by displaying compassion in this case and we would consider it a very important step towards improving the relationship between our respective countries if Moroz were to be released.

Sincerely,

EDWARD I. KOCH,
MILLICENT FENWICK,
CHRISTOPHER J. DODD.

The following Members of Congress have requested that their names be added to this letter:

Frank Annunzio, Bill Archer, Les AuCoin, Herman Badillo, Max Baucus, Edward Beard, Tom Bevill, Mario Biaggi, Jonathan Bingham, James Blanchard, John Brademas, William Brodhead, and William S. Broomfield.

George E. Brown, Jr., Philip Burton, William R. Cotter, Lawrence Coughlin, Dominick Daniels, Thomas Downey, Robert Drinan, Robert Duncan, Pierre du Pont, Don Edwards, Joshua Eilberg, Hamilton Fish, Jr., and Henry A. Waxman.

Daniel Flood, Edwin Forsythe, Donald Fraser, Bill Frenzel, Benjamin Gilman, Gilbert Gude, H. John Heinz, III, Henry Helstoski, Elizabeth Holtzman, Frank Horton, William J. Hughes, Jack Kemp, and John H. Krebs.

Robert Lagomarsino, Norman F. Lent, Clarence Long, Larry McDonald, Matthew McHugh, Andrew Maguire, Edward Mezvinsky, Abner Mikva, Joseph Minish, Parren Mitchell, Joe Moakley, and Charles Mosher.

Ronald Mottl, Stephen Neal, Lucien Nedzi, James O'Hara, Richard Ottinger, Edward Pattison, Claude Pepper, Richardson Preyer, Thomas Rees, Peter Rodino, Jr., Robert Roe, Benjamin Rosenthal, and Edward Roybal.

James Scheuer, Patricia Schroeder, Richard Schulze, Paul Simon, Stephen Solarz, Gladys Noon Spellman, Frank Thompson, Jr., Richard Vander Veen, Joseph Vigorito, Charles Wilson (Tex.), Lester Wolff, and Clement J. Zablocki.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GIAIMO (at the request of Mr. O'NEILL), for this week, on account of recovery from eye surgery.

Mr. HELSTOSKI (at the request of Mr. O'NEILL), for June 7 and 8, 1976, on account of death in the family.

Mr. JEFFORDS (at the request of Mr. RHODES), for today, on account of official business.

Mr. MILFORD (at the request of Mr. O'NEILL), for this week, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. EVANS of Indiana), to revise and extend their remarks, and to include extraneous matter:)

Mr. GONZALEZ, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. MCFALL, for 5 minutes, today.
Ms. ABZUG, for 20 minutes, today.
Mr. KOCH, for 10 minutes, today.
Mr. COTTER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. EMERY) and to include extraneous matter:)

Mr. HEINZ.
Mr. QUIE in two instances.
Mr. ESCH.
Mr. HAGEDORN.
Mr. WIGGINS.
Mr. GILMAN.
Mr. KEMP in three instances.
Mr. RUPPE.

(The following Members (at the request of Mr. EVANS of Indiana) and to include extraneous material:)

Mr. HOLLAND.
Mr. EVINS of Tennessee in five instances.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. ANNUNZIO in six instances.
Mr. BROWN of California in 10 instances.
Mr. DINGELL in three instances.
Mr. HUNGATE.
Mr. RICHMOND.
Mr. REES.
Mr. TEAGUE.
Mr. SIMON.
Mr. COTTER.
Mr. MCDONALD.

BILL PRESENTED TO THE PRESIDENT

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee did on June 4, 1976 present to the President, for his approval, a bill of the House of the following title:

H.R. 11438. An act to amend title 5, United States Code, to grant court leave to Federal employees when called as witnesses in certain judicial proceedings, and for other purposes.

ADJOURNMENT

Mr. EVANS of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 3 minutes p.m.), the House adjourned until tomorrow, Tuesday, June 8, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, INC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3436. A letter from the Fiscal Assistant Secretary of the Treasury, transmitting a report on the inventory of nonpurchased foreign currencies as of December 31, 1975, pursuant to section 613(c) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

3437. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to section 112(b) of Public Law 92-403; to the Committee on International Relations.

3438. A letter from the Deputy Administrator, Federal Energy Administration, transmitting an updated version of the report on changes in market shares for aviation gasoline, jet fuels, distillate fuel oils, residual fuel oil and motor gasoline, previously submitted pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

3439. A letter from the Chairman, Federal Power Commission, transmitting a copy of the publication entitled "All Electric Homes in the United States, 1975"; to the Committee on Interstate and Foreign Commerce.

3440. A letter from the Acting Secretary of Commerce, transmitting a draft of proposed legislation to amend the act of August 16, 1971, as amended, which established the National Advisory Committee on Oceans and Atmosphere, to extend the appropriation authorization thereunder; to the Committee on Merchant Marine and Fisheries.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BLOUIN:

H.R. 14212. A bill to foster and continue the family farm in the United States by providing young farmers with the necessary assistance to purchase family farm units, and for other purposes; to the Committee on Agriculture.

By Mr. BROOKS:

H.R. 14213. A bill to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes; to the Committee on Government Operations.

By Mr. FASCELL:

H.R. 14214. A bill to create a Joint Committee on Intelligence Operations with exclusive jurisdiction over intelligence matters and to impose conditions on the expenditure of funds by or for the Central Intelligence Agency for non-intelligence-gathering operations; to the Committee on Rules.

By Mr. FISH:

H.R. 14215. A bill to establish an Antitrust Review and Revision Commission; to the Committee on the Judiciary.

By Mr. MCFALL:

H.R. 14216. A bill to amend the Public Health Service Act to revise the migratory health program under that act so that seasonal agricultural workers will be provided services on the same basis as migratory agricultural workers; to the Committee on Interstate and Foreign Commerce.

By Mr. MELCHER (for himself, Mr. RUPPE, Mr. HOWE, Mr. WON PAT, and Mr. JOHNSON of Colorado):

H.R. 14217. A bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MOORE:

H.R. 14218. A bill to amend the National Trails System Act to authorize a feasibility study relating to the Bartram Trail in Louisiana; to the Committee on Interior and Insular Affairs.

By Mr. NIX (for himself and Mr. RODINO):

H.R. 14219. A bill to provide for the issuance of a commemorative postage stamp in honor of Dr. Martin Luther King, Jr.; to the Committee on Post Office and Civil Service.

By Mr. PRICE:

H.R. 14220. A bill to amend title 10, United States Code, to authorize the Secretary of the Air Force to contract with air carriers to acquire civil aircraft to provide greater cargo capacity for national defense purposes in the event of war or national emergency, and to modify existing passenger aircraft for this purpose; to the Committee on Armed Services.

By Mr. REUSS:

H.R. 14221. A bill to amend the Internal Revenue Code of 1954 to provide that the tax-exempt treatment allowed to certain industrial development bonds be restricted to bonds the proceeds of which are to be used within economic development areas, and for other purposes; to the Committee on Ways and Means.

By Mr. RHODES (for himself, Mr. MCCLORY, Mr. BROOMFIELD, Mr. BAFALIS, Mr. LUJAN, Mr. LATTA, Mr. FRENZEL, Mr. SCHNEEBELI, Mr. ANDREWS of North Dakota, Mr. BURGENER, Mr. GUYER, Mr. HINSHAW, Mr. CLEVELAND, and Mr. HYDE):

H.R. 14222. A bill to establish a procedure and timetable for the systematic examination of Federal regulatory activities and comprehensive reform in order to eliminate excessive regulatory restraints on the economy, reduce paperwork, streamline regulatory bureaucracy, and for other purposes; jointly to the Committees on Government Operations, and Rules.

By Mr. RHODES (for himself, Mr. SARASIN, Mr. BAUMAN, Mr. LOTT, Mr. EMERY, Mr. TALCOTT, Mr. MOORHEAD of California, Mr. MYERS of Indiana, Mr. GILMAN, Mr. BROYHILL, Mr. TAYLOR of Missouri, Mr. BELL, Mr. BEARD of Tennessee, and Mr. MITCHELL of New York):

H.R. 14223. A bill to establish a procedure and timetable for the systematic examination of Federal regulatory activities and comprehensive reform in order to eliminate excessive regulatory restraints on the economy, reduce paperwork, streamline regulatory bureaucracy, and for other purposes; jointly, to the Committees on Government Operations, and Rules.

By Mr. RICHMOND (for himself, Mr. BONKER, Mr. FORD of Tennessee, and Mr. YATES):

H.R. 14224. A bill to prohibit new rules and regulations from becoming effective under the Food Stamp Act of 1964 until the Congress enacts new legislation with respect to such act; to the Committee on Agriculture.

By Mr. ROGERS (for himself, and Mr. CARTER):

H.R. 14225. A bill to adjust the compensation of the Director of the National Cancer Institute; to the Committee on Interstate and Foreign Commerce.

By Mr. TEAGUE:

H.R. 14226. A bill to extinguish Federal court jurisdiction over school attendance; to the Committee on the Judiciary.

By Mr. UDALL:

H.R. 14227. A bill to direct the Secretary of Agriculture to release a condition with respect to certain real property conveyed by the United States to the board of regents of the universities and State colleges of Arizona for the use of the University of Arizona; to the Committee on Interior and Insular Affairs.

By Mr. WIRTH (for himself, Mr. BAUCUS, Mr. BROWN of California, Mr. HANNAFORD, Mr. MCCLOSKEY, Mr. MOORHEAD of California, Mr. MOORHEAD of Pennsylvania, Mr. PATTISON of New York, and Mr. REES):

H.R. 14228. A bill to regulate commerce to assure increased supplies of natural gas at reasonable prices for consumers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. COTTER:

H.J. Res. 975. Joint resolution to authorize and request the President to issue a proclamation designating October 8, 1976, as National Chess Day; to the Committee on Post Office and Civil Service.

By Mr. FLYNT (for himself and Mr. SPENCE):

H. Res. 1260. Resolution to amend the Rules of the House of Representatives to allow all expenses of the Committee on Standards of Official Conduct to be obtained directly from the contingent fund of the House of Representatives upon vouchers signed by its chairman and ranking minority member; to the Committee on Rules.

By Mr. GILMAN:

H. Res. 1261. Resolution relative to committee hearings on the Nation's future telecommunication policy; to the Committee on Interstate and Foreign Commerce.

By Mr. MICHEL (for himself, Mr. COLLINS of Texas, Mr. REGULA, Mr. MCEWEN, Mr. GRADISON, Mr. BURGENER, Mr. BROWN of Michigan, and Mr. RUPPE):

H. Res. 1262. Resolution to require the adoption of a resolution by the House of Representatives to carry out the establishment or adjustment of certain allowances to Members, officers, and standing committees of the House of Representatives; to the Committee on House Administration.

By Mr. WINN:

H. Res. 1263. Resolution to amend rule X of the Rules of the House of Representatives to permit a majority of the House to direct the Committee on Standards of Official Conduct to investigate complaints or resolutions involving alleged misconduct if the committee fails to undertake an investigation within 15-legislative days after the receipt of such complaint or referral of such resolution; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

399. By the SPEAKER: Memorial of the Legislature of the State of Oklahoma, requesting that Congress call a convention for the purpose of proposing an amendment to the Constitution of the United States to prohibit the coercive use of Federal funds by the Federal Government; to the Committee on the Judiciary.

400. Also, memorial of the Legislature of the State of New York, relative to chartering the International Veterans Boxers Association; to the Committee on the Judiciary.

401. Also, memorial of the Legislature of the State of New York, relative to observing Memorial Day on May 30; to the Committee on Post Office and Civil Service.

402. Also, memorial of the Legislature of the State of California, relative to the availability of air transportation for the handicapped; to the Committee on Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADDABBO (by request):

H.R. 14229. A bill for the relief of Mauritz A. Sterner; to the Committee on the Judiciary.

H.R. 14230. A bill for the relief of Samuel H. Williams of St. Albans, N.Y.; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

486. By the SPEAKER: Petition of the board of directors, chamber of commerce, Yonkers, N.Y., relative to the proposed Full Employment and Balanced Growth Act; to the Committee on Education and Labor.

487. Also, petition of the township council, Teaneck, N.J., relative to the proposed Criminal Justice Reform Act; to the Committee on the Judiciary.

488. Also, petition of the board of directors, American Society for Industrial Security, Washington, D.C., relative to terrorism; to the Committee on the Judiciary.

489. Also, petition of the Lake County Sheriff's Posse Comitatus, Ronan, Mont., relative to treason; to the Committee on the Judiciary.

490. Also, petition of the Ponape District Legislature, Eastern Caroline Islands, Trust Territory of the Pacific Islands, relative to the American Revolution Bicentennial; to the Committee on Post Office and Civil Service.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 13179

By Mr. HENDERSON:

Page 10, strike out lines 1 through 9 and insert in lieu thereof the following new section:

COST-OF-LIVING ADJUSTMENTS OF FOREIGN SERVICE AND CIVIL SERVICE ANNUITIES

SEC. 13. (a)(1) Section 882(b) of the Foreign Service Act of 1946 (22 U.S.C. 1121(b)) is amended to read as follows:

"(b) Effective the first day of the second month which begins after the price index change equals a rise of at least 3 percent for a month over the price index for the month last used to establish an increase, each annuity payable from the Fund having a commencing date not later than that effective date shall be increased by such per-

centage rise in the price index, adjusted to the nearest 1/10th of 1 percent."

(2) Section 8340(b) of title 5, United States Code, is amended to read as follows:

"(b) Each month the Commission shall determine the percent change in the price index. Effective the first day of the second month which begins after the price index change equals a rise of at least 3 percent for a month over the price index for the base month, each annuity payable from the Fund having a commencing date not later than that effective date shall be increased by such percentage rise in the price index, adjusted to the nearest 1/10th of 1 percent."

(b)(1) Except as provided in paragraphs (2) and (3) of this subsection, the amendments made by subsection (a) of this section shall take effect—

(A) at the end of the 45-day period beginning on the date of the enactment of this Act; or

(B) October 1, 1976;

whichever is later.

(2) In the event the price index change, as determined by the Secretary of State for the month in which the effective date prescribed under paragraph (1) of this subsection occurs, equals a rise of at least 3 percent over the price index for the month last used to establish an annuity increase under section 882(b) of the Foreign Service Act of 1946 (22 U.S.C. 1121(b)), each annuity payable from the Foreign Service Retirement and Disability Fund shall be increased, effective on the first day of the second month that begins after such effective date, by the percentage rise in the price index for the month in which such effective date occurs, adjusted to the nearest 1/10th of 1 percent.

(3) In the event the price index change, as determined by the Civil Service Commission for the month in which the effective date prescribed under paragraph (1) of this subsection occurs, equals a rise of at least 3 percent over the price index for the base month currently in effect under section 8340 of title 5, United States Code, each annuity payable from the Civil Service Retirement and Disability Fund shall be increased, effective on the first day of the second month that begins after such effective date, by the percentage rise in the price index for the month in which such effective date occurs, adjusted to the nearest 1/10th of 1 percent.

Page 10, strike out lines 3 through 9 and insert in lieu thereof the following:

SEC. 13. (a) Section 882(b) of the Foreign Service Act of 1946 (22 U.S.C. 1121(b)) is amended to read as follows:

"(b) Effective the first day of the second month which begins after the price index change equals a rise of at least 3 percent for a month over the price index for the month last used to establish an increase, each annuity payable from the Fund having a commencing date not later than that effective date shall be increased by such percentage rise in the price index, adjusted to the nearest 1/10th of 1 percent."

(b)(1) Except as provided in paragraph (2) of this subsection, the amendment made by subsection (a) of this section shall take effect—

(1) at the end of the 45-day period beginning on the date of the enactment of this Act; or

(2) October 1, 1976;

whichever is later.

(3) In the event the price index change, as determined by the Secretary of State for the month in which the effective date prescribed under paragraph (1) of this subsection occurs, equals a rise of at least 3 percent over the price index for the month last used to establish an annuity increase under section 882(b) of the Foreign Service Act of 1946 (22 U.S.C. 1121(b)), each annuity payable from the Foreign Service Retirement and Disability Fund shall be increased, effective on the first day of the second month that begins after such effective date, by the percentage rise in the price index for the month in which such effective date occurs, adjusted to the nearest 1/10th of 1 percent.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House Rule X. Previous listing appeared in the CONGRESSIONAL RECORD of June 4, 1976, page 16676:

HOUSE BILLS

H.R. 13690. May 11, 1976. Ways and Means. Amends the Internal Revenue Code to provide that the amount of the charitable deduction allowed to a corporation for gifts of property need be reduced by only one-half of the amount which would have been taxed as ordinary income if the donated property is related to the basis for the donee's tax exempt status.

H.R. 13691. May 11, 1976. Post Office and Civil Service. Entitles to overtime rates of pay Federal employees performing critical services who are required to remain at work when other agency employees have been dismissed without charge to leave or loss of pay due to emergency or adverse weather conditions.

H.R. 13692. May 11, 1976. Agriculture. Amends the Forest and Rangeland Renewable Resources Planning Act of 1974 to direct the Secretary of Agriculture to include in the Renewable Resource Program, national program recommendations which take into account specified policy objectives. Requires the Secretary to provide for public participation in the formulation and review of proposed land management plans and to promulgate regulations for their development and revision.

Revises provisions relating to the sale of timber found on National Forest Service lands.

H.R. 13693. May 11, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13694. May 11, 1976. Ways and Means. Amends the Social Security Act by including the services of optometrists under the Medicare supplementary medical insurance program.

H.R. 13695. May 11, 1976. Ways and Means. Allows a tax credit, under the Internal Revenue Code, for a specified amount of the tax on employers paid during the taxable year by the corporation.

H.R. 13696. May 11, 1976. Post Office and Civil Service; Agriculture. Terminates the duty of the Secretary of Commerce to take agricultural, drainage, and irrigation censuses. Directs the Secretary to continue the statistical classification of farms which was in effect on January 1, 1975, until June 30, 1976.

Directs the Secretary of Agriculture to collect comparable information on agriculture, drainage and irrigation on a sample basis.

H.R. 13697. May 11, 1976. Agriculture. Amends the Forest and Rangeland Renewable Resources Planning Act of 1974 to direct the Secretary of Agriculture to include in the Renewable Resource Program, national program recommendations which take into account specified policy objectives. Requires the Secretary to provide for public participation in the formulation and review of proposed land management plans and to promulgate regulations for their development and revision.

Revises provisions relating to the sale of timber found on National Forest Service lands.

H.R. 13698. May 11, 1976. Agriculture. Amends the Food Stamp Act of 1964 to require the Secretary of Agriculture to establish regulations governing the deposit of funds received by food coupon vendors for allotments of such coupons, and the accounting for such funds to State and Federal agencies.

Establishes criminal penalties for the violation of such regulations.

H.R. 13699. May 11, 1976. Rules. Terminates certain authorizations of budget authority, and limits the number of years for which new budget authority may be legislated. Requires quadrennial review of all Federal programs by the congressional committees with legislative jurisdiction over such programs.

Requires the Secretary of the Treasury to prepare an annual financial statement for the United States using accrual accounting procedures.

Requires all bills and joint resolutions introduced in Congress to disclose the projected costs and savings of the actions such legislation proposes.

H.R. 13700. May 11, 1976. Interstate and Foreign Commerce. Requires the Secretary of Commerce to provide grants to the Lake Placid 1980 Olympic Games, Inc., for assisting in the planning, design, and construction of winter sports and supporting facilities for the XIII International Olympic winter games.

H.R. 13701. May 11, 1976. Public Works and Transportation. Authorizes the Secretary of Commerce to make grants for local public works projects, provided that such projects are designed to alleviate unemployment and do not involve the damming or other diversion of water.

H.R. 13702. May 11, 1976. Government Operations; Rules. Requires the President to submit to the Congress, over a period of five years, comprehensive plans for the reform of Federal regulatory agencies. States that such plans shall be designed to eliminate unnecessary or harmful regulation and to increase the overall efficiency of regulatory agencies by merging, modifying, or abolishing existing agencies and functions.

H.R. 13703. May 11, 1976. Judiciary. Includes Columbia, Greene, and Ulster counties in the northern judicial district of New York.

H.R. 13704. May 11, 1976. Ways and Means; Interstate and Foreign Commerce. Amends the Social Security Act to require the participation of optometrists in the activities of the National Professional Standards Review Council and of local professional standards review organizations.

H.R. 13705. May 11, 1976. Agriculture. Amends the Food Stamp Act of 1964: (1) to require the Secretary of Agriculture to establish uniform national eligibility standards for participation in the Food Stamp program; (2) to define household income limits and the amount of household assets which will be permitted in determining eligibility; (3) to stipulate the conditions under which unemployment or underemployment will disqualify an applicant; (4) to establish regulations for the redemption of coupons; (5) to set the value of a household's coupon allotment and the amount the household must pay therefor; and (6) to require State payment of a portion of Food Stamp program costs.

H.R. 13706. May 11, 1976. Judiciary. Establishes procedures for the determination of the mental competency of an individual accused of a crime using the reports of a panel of qualified examining psychiatrists. Authorizes the trial court to commit an accused who is found incompetent to the care of the Secretary of Health, Education, and Welfare. Outlines the procedure required for civil commitment of such persons. Requires an annual review of the danger posed by any accused in the Secretary's custody. Requires discharge if no danger is found and entitles the accused to a hearing if the determination is adverse.

H.R. 13707. May 11, 1976. Judiciary. Authorizes the Judicial Conference of the United States to fix fees and costs in U.S. district courts.

H.R. 13708. May 11, 1976. Judiciary. Requires the supervisory Board of the Federal Judicial Center to hold meetings semiannually (formerly quarterly). Allows the Board to authorize an expenditure for furnished housing accommodations for the director and his family in specified circumstances.

H.R. 13709. May 11, 1976. Judiciary. Establishes penalties for killing, attempting to kill, kidnapping, assaulting, or threatening a foreign officer, official guest, or internationally protected person. Establishes penalties for willfully interfering with a foreign official in the performance of official duties.

H.R. 13710. May 11, 1976. Judiciary; Public Works and Transportation. Prohibits knowing communication of false information which endangers the safety of an aircraft in flight. Enumerates offenses in violation of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation and prescribes penalties for their violation. Prohibts conveying a threat to do specified felonious acts related to the destruction of aircraft and aircraft facilities where there is apparent determination and will to carry the threat into execution.

Amends the Federal Aviation Act of 1958 to prohibit unauthorized persons from carrying a concealed deadly or dangerous weapon when boarding an aircraft.

SENATE—*Monday, June 7, 1976*

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. WENDELL H. FORD, a Senator from the State of Kentucky.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, we turn for this moment from the hurry and noise of the world about us to make this place a quiet sanctuary of Thy presence. Impart to our waiting hearts a wisdom greater than our own. Show us hour by hour the way of beauty and goodness and truth. Help us this new week to meet its duties with fidelity, its difficulties with fortitude, its joys with gratitude. In all the deliberations of this Chamber may the causes here served and the decisions here made be fruitful for the common good.

In the name of Thy Son, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 7, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. WENDELL H. FORD, a Senator from the State of Kentucky, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. FORD thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have the Journal of the proceedings of Friday, June 4, 1976, approved.

The ACTING PRESIDENT pro tempore. Without objection——

Mr. ALLEN. Reserving the right to object, Mr. President, we are still in the same legislative day we were in last week and since I do not feel the Journal ought to be approved piecemeal, let us wait until the end of the legislative day. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The Senator from Montana.

COMMITTEE MEETINGS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet until 1 p.m. today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ANNOUNCEMENT BY THE SECRETARY REGARDING PROCEDURES FOR UNPRINTED AMENDMENTS

As of Monday, June 7, 1976, unprinted amendments offered from the floor by Senators will be identified by numbers.

A prenumbered form will be attached to the face of the first page of each unprinted amendment, showing the sponsor's name, the bill or resolution number proposed to be amended, the date, and any necessary remarks.

As in the case of printed amendments, the numbers will start with 1 at the beginning of a new Congress and run consecutively through the entire 2 years. The numbers will have an UP designation; that is, UP73, UP612, and so forth, to distinguish them from printed amendment numbers which will still run simply from 1 onward, as required.

An unprinted numbered amendment, if pending at the close of a daily session will lose that number and receive a printed amendment number. The UP number so canceled will not be used again on another unprinted amendment. The changeover from one number to the other in the Journal, RECORD, and Daily Digest will be the responsibility of the respective editors.

Any changes made officially on the floor to the text of a numbered unprinted amendment, such as modifications thereto, will be covered by the attachment of an addenda to the original UP form, which will specifically note the fact under remarks; that is, "modification to UP 386, etc." If final action has been taken on the amendment at the time the UP form is attached, the remarks column will so indicate.

FRANCIS R. VALEO,
Secretary of the Senate.

UNANIMOUS-CONSENT AGREEMENT—COMMITTEE ASSIGNMENTS

Mr. MANSFIELD. Mr. President, I send to the desk a unanimous-consent request and ask that it be immediately considered.

The ACTING PRESIDENT pro tempore. The request will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MANSFIELD) proposes a unanimous-consent request:

(1) that in addition to the committee memberships to which a Senator may be entitled under paragraph 6 of Rule XXV of the Standing Rules of the Senate, a Senator may serve during the 94th Congress as a member of any one joint committee, if the Senate members of that committee may be selected only from among members of one or more of the standing committees named in paragraph 2 or 3 of that rule and specified in the provision of law relating to the selection of membership to such joint committee; and

(2) that a Senator, who on January 2, 1971, was a member of more than one committee of the classes described in the second sentence of paragraph 6(a) of Rule XXV of the Standing Rules of the Senate, may be assigned during the 94th Congress to other committees included within those classes, except that no Senator may serve on a number of committees of these classes greater than the numbers of such committees on which he was serving on such date.

Mr. MANSFIELD. Mr. President, in the 92d and 93d Congresses, the attached unanimous-consent agreement was approved. Research indicates that a similar request was not made during this, the 94th, Congress, and as a result, a number of Senators are holding committee assignments without legal precedent.

In order to appropriately correct the error, a similar request should be made in this Congress and again in the 95th Congress. This procedure will be necessary until Senator STEVENSON's Committee on Committees recommends appropriate recommendations, and the Senate takes final action. His committee completes its action in February 1977. Hopefully, the Senate rules will be amended to accommodate their recommendations.

This unanimous-consent request will not affect the current assignments to committees as they were established at the beginning of this Congress.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, the request is agreed to.

ORDER OF BUSINESS

Mr. CURTIS. Mr. President will the Senator yield so I may introduce a measure?

Mr. MANSFIELD. Surely, I yield.

FREEDOM OF EMIGRATION ACT—S. 3524

Mr. CURTIS. Mr. President, today I am introducing a bill entitled "The Freedom of Emigration Act."

This is a bill which I am sure every Senator will want to support. It provides that no credit, direct or indirect, or no guarantees, or no trade agreements, shall be entered into with any nonmarket economy country that denies its citizens the right and opportunity to visit or to join permanently with their close relatives in the United States, such as spouse, parent, child, brother, or sister.

Mr. President, the need for this is very great. The substance of our country should not be used to support the economy of countries where their own people are not allowed to visit with their close relatives in the United States and to emigrate therefrom.

I send the bill to the desk and ask that it be appropriately referred.

I ask unanimous consent that a copy of this bill I have introduced be printed in the RECORD at this point.

The ACTING PRESIDENT pro tempore. Without objection, the bill will be received and referred to the Committee on Finance.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3524

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Freedom of Emigration Act".

SEC. 2. Section 409 of the Trade Act of 1974 (19 U.S.C. 2439) is amended to read as follows:

"SEC. 409. FREEDOM TO VISIT OR TO EMIGRATE TO JOIN A VERY CLOSE RELATIVE IN THE UNITED STATES.

"(a) To assure the continued dedication of the United States to the fundamental human rights and welfare of its own citizens, and not withstanding any other provision of law, on or after the date of the enactment of the Freedom of Emigration Act, no nonmarket economy country shall participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, directly or indirectly, and the President of the United States shall not conclude or renew any commercial agreement with any such country, during the period beginning with the date on which the President determines that such country—

"(1) denies its citizens the right or opportunity to visit or to join permanently through emigration (within six months of the date of application or attempted application for the proper passport or other documents necessary to be able to leave for the United States) a very close relative in the United States, such as a spouse, parent, child, brother, or sister.

"(2) imposes more than a nominal tax on emigration or on passports, exit visas, or other documents required for visits or for emigration, for any purpose or cause whatsoever, on a citizen described in paragraph (1);

"(3) imposes more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the citizen's desire to visit or to emigrate to the country of his choice;

"(4) does not allow a citizen described in paragraph (1) to pay for the transportation needed for the visit or emigration, and to take along currency equal to, if visiting, one-half, and if emigrating, five times the cost of the tourist fare for a regularly scheduled airplane to the United States, in addition to the payment for transportation;

"(5) does not allow a citizen described in paragraph (1), if retired and receiving a pension or other old age benefit, to receive the benefits while visiting in the United States, or after emigrating to the United States; or

"(6) makes it difficult or impossible for a citizen described in paragraph (1) to receive visitors from the United States by forcing the visitor to exchange or spend a certain amount of western currency, while visiting, or by other means applied to circumvent the requirements of this section,

and ending one year after the date on which the President determines that such country is no longer in violation of paragraph (1), (2), (3), (4), (5), or (6).

"(b) After the date of the enactment of the Freedom of Emigration Act, (A) a nonmarket economy country may participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, and (B) the President may conclude or renew a commercial agreement with such country, only after the President has submitted to Congress a report indicating that—

"(1) the country is not in violation of paragraph (1), (2), (3), (4), (5), or (6) of subsection (a), and it was never in violation of any of such paragraphs while it was obligated to observe them; or

"(2) the country has not been in violation of any of such paragraphs during the one year ending on the day on which such report is submitted.

Such report with respect to such country shall include information as to the nature and implementation of its laws and policies and restrictions or discriminations applied to or against persons wishing to visit or to emigrate to the United States for any reasons. The report required by this subsection shall be submitted initially as provided herein and, with current information, on or before each June 30 and December 31 thereafter, so long as such credits or guarantees are extended or such agreement is in effect.".

"(c) If the Senate or the House of Representatives by resolution of either House finds that a country is in violation of paragraph (1), (2), (3), (4), (5), or (6) of subsection (a), then the President shall treat that country as being in violation for the purposes of this section.

ORDER OF BUSINESS

Mr. MANSFIELD. I yield 5 minutes to the Senator from Connecticut.

ANNOUNCEMENT OF SUPPORT FOR JIMMY CARTER

Mr. RIBICOFF. Mr. President, America is about to reach for a new sense of unity. The key to America's success is that it has always been a land of opportunity. Here every person should have the right to achieve any position in our land—social, economic or political. This applies to every race, color, or creed.

It should also apply to every State of our Union.

I have been deeply disturbed during the past months by those who would deny a man the Presidency solely because he was a southerner. Not since 1848 has a person from the South been elected President of our land. What we have learned in recent years is that there is no monolithic thinking in any State.

Our population growth has been moving toward the sunbelt. Who are we northerners to insist that only we are suited for the Presidency.

All my life I have insisted that no man should be denied high public office because of his race, color, or creed.

If a Catholic, or a Jew, or a black should have this right, why should not a Southern Baptist have this right as well. Who among us who insists on tolerance and objectivity based on character and ability would deny this right to a man who comes from Georgia and is a Baptist.

A Georgia Baptist is entitled to the same rights and opportunities as a Massachusetts Catholic or a Connecticut Jew.

I have never met Jimmy Carter. I have talked with him once on the telephone a few months back.

I have followed his campaign for the Presidency carefully. I have read interview after interview. I understand his positive and negative attributes—as I do in the other candidates.

Governor Carter has been as forthcoming on the issues as any other candidate. I have become convinced that Jimmy Carter is a man of character and ability. I am confident he will make a good and strong President.

I support Jimmy Carter for the Democratic nomination for President and will work for his election.

Mr. ALLEN. Will the Senator yield?

Mr. RIBICOFF. I am pleased to yield to the Senator.

Mr. ALLEN. I commend the distinguished Senator from Connecticut for his remarks, while I disagree with him in choosing to support Jimmy Carter for the Presidency inasmuch as I support the distinguished Governor of Alabama, Gov. George C. Wallace, for the Presidency.

But I do commend the distinguished Senator from Connecticut for saying that a southerner should not be barred in national thinking from the office of President. To do so would deprive the country, and it has deprived the country in the last 130 years of much talent and much ability and much statesmanship.

The Senator, taking this statesmanlike view, recalls to my mind the statesmanlike position he took with respect to the Stennis amendment that was pending before the Senate for a number of months several years ago.

The distinguished Senator from Connecticut, showing his great statesmanship, took the position that there should not be two separate rules for the desegregation of the public schools of this country.

There should not be a northern rule and a southern rule, but there should be

one informal rule. My admiration for the distinguished Senator from Connecticut, which has always been very great, jumped by leaps and bounds when he did take that position. I find him today taking a statesmanlike position that we should choose on the basis of ability and not on the basis of sectionalism.

The ACTING PRESIDENT pro tempore. The Senator's 5 minutes have expired.

Mr. MANSFIELD. Mr. President, I yield myself 1 minute to comment on the remarks of the distinguished Senator from Connecticut.

Mr. President, if the Democrats are going to win this November, they are going to have to be unified as a party. I would hope that each candidate would campaign on the basis of the merits involved in the issues to be considered, and that there would be no "stop campaign" against any candidates. I think one of the best ways to split the party—and we have split too often in the decades past—is to inaugurate and carry to a conclusion a campaign of that nature.

If we stay together and if we remain unified, as we are at the present time, there is no doubt in my mind but that the Democrats will win next November. But if we become fragmented in an effort to get a candidate, no matter who that candidate may be, it means, of course, that disunity will be the result and the chances of a Democratic victory next November will be negated to that degree.

Mr. RIBICOFF. I thank the distinguished majority leader and the Senator from Alabama.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 a.m., tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Pennsylvania.

LEAVE OF ABSENCE

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the distinguished Senator from Arizona (Mr. GOLDWATER) be noted as necessarily absent from the Senate until such period as he is able to return.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Do Senators yield back their time?

Mr. HUGH SCOTT. Yes.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from North Carolina (Mr. MORGAN) is recognized for not to exceed 15 minutes.

A DIALOG ON FREEDOM AND INTELLIGENCE—THE "CHILLING EFFECT" OF GOVERNMENT SPYING ON CITIZENS WHO HAVE DONE NO WRONG

Mr. MORGAN. Mr. President, on Friday of last week we began a dialog which I expect to carry on for a number of days on freedom and intelligence in this country. This morning I want to address my remarks during the morning hour to the chilling effects of Government spying on citizens who have done no wrong.

Mr. President, many times during the course of my 15 months on the Select Committee on Intelligence, I was asked to comment on the committee's work. Just as frequently, my comments provoked criticism from those in the audience who found it hard to believe the FBI, IRS, or any other of the intelligence agencies of the Government could do anything wrong. I must say that prior to serving on the select committee, I had shared their skepticism.

Among the questions I was most frequently asked was why should anyone care whether the Government keeps files on them, or sends agents to attend their meetings or opens their mail, if they have not done anything wrong? The idea being that since most of us are not criminals, we have nothing to fear from the Government.

The question is important, Mr. President, not for the problem it poses, but for what it demonstrates about what we as individuals have come to expect, and accept, from our Government. If there is one thing I hope to accomplish during my tenure on the new oversight committee it is to rekindle in people's minds the notion of our constitutional forbearers that, barring some overriding public purpose, the rights and liberties of the individual shall be secure against the Government. This was the notion that caused the State of North Carolina to withhold its ratification of the U.S. Constitution until a Bill of Rights was adopted by the Congress. It was the same notion that prompted North Carolinians to adopt their own Halifax resolves and Mecklenburg declaration of independence, two of the earliest demands of the Colonists for a guarantee of individual liberty.

When people ask me, therefore, why we should care if the Government intrudes itself into our lives if we have nothing to hide, I find it particularly disheartening. At the very least, the question shows a lack of understanding of how Government works and what it can do to an individual. But even more important, it shows an indifference to those hard-won rights and privileges that 200 years ago, Americans were willing to fight for, and die for.

Times have changed, and by-and-large Government today has the trust of the people. Ironically, however, never before has the Government been so enmeshed in the lives of its citizens. As society has grown more complicated, the Government's role has expanded. As technology has improved, so has the capacity of the Government improved to insinuate itself into lives of individuals. Few people seem to worry however, about the impact these developments have on their privacy or other rights guaranteed by the Constitution. They see nothing wrong, for instance, in the Government keeping records of their lawful activities, since, as they tell me, they are not doing anything wrong and have nothing to hide.

But this answer fails to take account of the literally hundreds of ways the Government has of taking an action against an individual short of prosecuting him for a crime. Among other things, the Government can audit your taxes, assess your property, furnish information to your employer, deny you Federal benefits, deny you a job, deny you a security clearance, furnish information to potential creditors, or deny you some special status.

The information that Government collects about an individual can be the basis for literally hundreds of administrative decisions—most of which are not made by any elected official or reviewed by any judge. They are made by some Government bureaucrat who is virtually unaccountable for his decisions. If he does not like your politics, or his boss does not like your politics, you may find yourself turned down for a job or denied some Federal benefit.

Moreover, we have seen people subjected to more than simply administrative harassment. In the course of its COINTELPRO, the FBI attempted to break up marriages; tried to foment violence between rival groups; attempted to discredit individuals with their employers and financial backers; planted false news items about people in the press; prevented people from getting honorary degrees and speaking on college campuses; and, in the case of Martin Luther King, attempted to prevent his seeing the Pope.

It has, in short, been amply demonstrated that the Government can and does take actions against individuals and organizations not because they have committed any crime, but because someone in Washington does not like their politics.

But, to my mind, as important as it is to realize what the Government is capable of, it is even more important to realize that it is our rights and liberties which we stand to lose, every bit as much as our jobs and our reputations. Former Chief Justice Louis D. Brandeis in his famous dissent in the Olmstead case in 1928 wrote that—

> The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness . . . They conferred as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men.

We have all found that one's "right to be let alone" by the Government is far from absolute—that it often gives way for the greater public good. But I think that Brandeis meant that the Bill of Rights at the very least guarantees us that the Government shall not arbitrarily intrude itself into our lives without good reason. Hence, we have the fourth amendment which provides that no search warrant shall be issued except upon probable cause that a crime has been committed. We have the first amendment which protects us against recriminations by the Government for what we say. But, as Justice Oliver Wendell Holmes once wrote, even it will not prevent the arrest of a person who yells "fire" in a crowded theater. The right of the individual, in that case, gives way to the greater public good.

My point, then, is that when we realize that the Government is intruding itself

into our personal lives, we owe it to ourselves and to the democracy we live in to ask "Why."

What purpose is derived? Why, for example, should the FBI be paying informants to attend meetings of groups who are suspected of committing no crime? Why should the CIA be opening the mail of individuals who are suspected of committing no crime? What public purpose is served by the Army's keeping files on the political activities of 100,000 individuals who were not suspected of committing any crime? These things happened, and yet no one in the Government questioned them—no one asked "why?"

It bothers me still, that even after these activities have been exposed, and after they have been discontinued, that many people still see nothing wrong, no threat to their own liberty, in their having occurred. People tell me that these agencies were only keeping track on individuals and organizations in the event they should decide to do something wrong—that they were only protecting us.

I would submit, Mr. President, that this is one kind of protection we can do without. It is dangerous and clearly contrary to the Constitution because it allows Government to insinuate itself into our lives without a good reason. If we accepted this suggestion of Government power, it would allow the Government to send informants to every private meeting held in the United States, to tap every phone, to read every letter. After all, who knows what it might discover in time.

The end result would be to make us watch what we say, watch what we write, take care with regard to the groups we join or the petitions we sign. In short, the result of accepting Government snooping would be to discourage people from taking the very risks the first amendment is there to encourage.

I myself have been struck by this very feeling. As a member of the Select Committee on Intelligence, I was provided with the file that the FBI maintained on me. To my surprise, the file included a report of my activities at conventions of the National Association of Attorneys General, which I attended several years ago as attorney general of North Carolina. There was nothing very remarkable in the report, but it astounded me to learn that the FBI had directed one of its agents to file a report on my activities at the convention. I do not know why such a report was asked for.

I do not know whether similar reports were filed on other States attorneys general at the convention. But it gave me an idea about how far things had gone, especially in the light of the fact that of the 11 members of the select committee, the FBI had maintained files on all 11, which indicates that it was not just a happenstance that those files were maintained on the 11 who happened to be the committee. And it worried me that such files were available, and how they might be used. As much as I might like to say that the FBI's keeping files on my political and professional activities will have no bearing upon my actions, I cannot, in all candor, say that I will be able to totally disregard it. Who can be certain that his judgment will not be swayed, perhaps even subconsciously, by the realization that he is being watched by the FBI? How many Senators could say with certainty that they would not exercise greater caution in speaking their minds or casting their votes, if they knew that the FBI was keeping book on them and might imperil their political futures?

I suspect the "chilling effect" might be even worse for the citizen who did not have, as we have, an awareness of the legal and administrative means of redress at his disposal, or ready access to the media. If one lacked the confidence that he could successfully challenge the Government, he would undoubtedly be more inclined to keep quiet and avoid rocking the boat.

Mr. President, I do think that such paranoia about the Government has quieted in recent months principally because most of the objectionable activities of the intelligence agencies have been disclosed and, as a result, discontinued. But I genuinely feel that if these activities had not been exposed and challenged, that our society was on the way to becoming something of a police state. In time, it may have become too overwhelming to control.

For the future, I think the best way to insure that the intelligence agencies do not infringe upon constitutionally-protected activities, and, at the same time, inspire confidence in the American people, is for Congress to enact legislation spelling out specifically the circumstances under which Government can undertake investigations of its citizens. We have seen that allowing the FBI or any of our intelligence agencies to investigate individuals and groups for reasons other than the fact that they are suspected of violating the law, is an extremely dangerous enterprise. It is dangerous because there is no stopping point. In the past, we have allowed the Government to have this power, and we have left it to the Government to decide when to use it. This, in my opinion, must change.

It has been the principal reason for the abuses we have seen, and poses the greatest threat to our constitutional liberties in the future. As Woodrow Wilson said in 1912:

> Liberty has never come from the government. Liberty has always come from the subjects of it. The history of liberty is a history of resistance. The history of liberty is a history of limitations of government power, not the increase of it.

Mr. President, I yield the floor.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

APPROVAL OF BILL

A message from the President of the United States announced that on June 4, 1976, he approved and signed the bill (S. 2498) to amend the Small Business Act and Small Business Investment Act of 1958 to provide additional assistance under such Acts, to create a pollution control financing program for small business, and for other purposes.

PROGRESS OF THE CYPRUS NEGOTIATIONS—MESSAGE FROM THE PRESIDENT

The Presiding Officer laid before the Senate the following message from the President of the United States, which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

Pursuant to Public Law 94–104, I am submitting my fourth periodic report on the progress of the Cyprus negotiations and the efforts this Administration is making to help find a lasting solution to the problems of the island. In previous reports I have detailed the Administration's efforts to revitalize the negotiating process so that the legitimate aspirations of all parties, and particularly those of the refugees, could be accommodated quickly and in the most just manner possible.

Differences on procedural issues have long prevented the Greek-Cypriot and Turkish-Cypriot communities from broaching such critical issues as territory, the form and function of the central government and other constitutional issues. Throughout the period since the hostilities of 1974, we have consistently urged serious consideration of these issues. As my most recent report indicated, an agreement was reached at the February round of the Cyprus intercommunal talks in Vienna, held under the auspices of United Nations Secretary General Waldheim, to exchange negotiating proposals on the key substantive issues of the Cyprus problem. When both sides submitted proposals in April to Secretary General Waldheim's Special Representative on Cyprus, a new impasse developed which delayed a complete exchange on the territorial question. Additionally, in April, Glafcos Clerides resigned his position as the Greek-Cypriot negotiator. These developments, with the subsequent appointment of new Greek-Cypriot and Turkish-Cypriot negotiators, resulted in the postponement of the next negotiating round which had been scheduled to take place in Vienna in May.

On April 15, I invited Greek Foreign Minister Bitsios to the White House for a very useful exchange of views on developments relating to Cyprus.

In addition, the United States and other interested parties maintained close contact with Secretary General Waldheim to support his attempts to resolve these difficulties and resume the intercommunal negotiating process. These

efforts culminated in discussions on the occasion of the Oslo NATO Ministerial meeting in late May where Secretary of State Kissinger held separate meetings with Turkish Foreign Minister Caglayangil and Greek Foreign Minister Bitsios, following which the Greek and Turkish Foreign Ministers met together to discuss outstanding bilateral issues including Cyprus. In the course of this process, the Secretary of State stressed the absolute need to move expeditiously to discuss the key outstanding Cyprus issues.

The Secretary of State also publicly emphasized our continuing concern that a rapid solution of the Cyprus dispute be achieved and reiterated the firm position of this Administration that the current territorial division of the island cannot be permanent.

Following the meetings in Oslo, views on territorial issues were exchanged by the two Cypriot communities, and it should now be possible to reinitiate the negotiating process under the auspices of U.N. Secretary General Waldheim.

The United States will continue to contribute actively to these efforts aimed at a solution to the Cyprus problem. I remain convinced that progress can be registered soon if mutual distrust and suspicions can be set aside, and each side genuinely tests the will of the other side to reach asolution. For our part, we shall remain in touch with Secretary General Waldheim and all interested parties to support the negotiating process. Our objective in the period ahead, as it has been from the beginning of the Cyprus crisis, is to assist the parties to find a just and equitable solution.

GERALD R. FORD.

THE WHITE HOUSE, *June 7, 1976.*

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The ACTING PRESIDENT pro tempore. The Senate now will resume consideration of H.R. 8532, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. The pending question is on agreeing to the amendment by the Senator from from Michigan (Mr. PHILIP A. HART) in the nature of a substitute.

Who yields time?

Mr. ALLEN. Vote.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Michigan.

Mr. ALLEN. Vote.

QUORUM CALL

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The clerk will continue to call the roll.

The assistant legislative clerk continued to call the roll, and the following Senators answered to their names:

[Quorum No. 10 Leg.]

Allen	Griffin	Sparkman
Byrd, Robert C.	Inouye	Symington
Ford	Mansfield	Talmadge
	Morgan	

Mr. ROBERT BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Minnesota (Mr HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from Mississippi (Mr. STENNIS), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Hawaii (Mr. FONG), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nebraska (Mr. HRUSKA), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Ohio (Mr. TAFT), and the Senator from South Carolina (Mr. THURMOND), are necessarily absent.

The ACTING PRESIDENT pro tempore. A quorum is not present.

The clerk will call the names of the absent Senators.

The assistant legislative clerk continued the call of the roll.

Mr. ALLEN. Mr. President, I move that the Senate recess in accordance with the previous order.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Alabama. (Putting the question.)

Mr. ALLEN. Mr. President, I call for a division.

The ACTING PRESIDENT pro tempore. A division has been called for.

Senators in favor will rise and stand until counted.

(After a pause.) Senators opposed will stand until counted.

Mr. ROBERT C. BYRD. Mr. President, what is the question?

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Alabama to recess in accordance with the previous order.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from Mississippi (Mr. STENNIS), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

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Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Hawaii (Mr. FONG), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nebraska (Mr. HRUSKA), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Ohio (Mr. TAFT), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

The result was announced—yeas 0, nays 73, as follows:

[Rollcall Vote No. 224 Leg.]

YEAS—0

NAYS—73

Abourezk	Gravel	Mondale
Allen	Griffin	Morgan
Baker	Hansen	Nelson
Bartlett	Hart, Gary	Packwood
Beall	Hart, Philip A.	Pastore
Biden	Hartke	Pearson
Brock	Haskell	Percy
Brooke	Hatfield	Proxmire
Burdick	Hathaway	Randolph
Byrd, Harry F., Jr.	Helms	Ribicoff
	Hollings	Roth
Byrd, Robert C.	Huddleston	Schweiker
Case	Inouye	Scott, Hugh
Chiles	Jackson	Scott, William L.
Clark	Johnston	
Cranston	Leahy	Sparkman
Curtis	Long	Stafford
Dole	Mansfield	Stevens
Domenici	Mathias	Stevenson
Durkin	McClellan	Stone
Eagleton	McClure	Symington
Eastland	McGee	Talmadge
Fannin	McGovern	Tower
Ford	McIntyre	Weicker
Glenn	Metcalf	Young

NOT VOTING—27

Bayh	Garn	Moss
Bellmon	Goldwater	Muskie
Bentsen	Hruska	Nunn
Buckley	Humphrey	Pell
Bumpers	Javits	Stennis
Cannon	Kennedy	Taft
Church	Laxalt	Thurmond
Culver	Magnuson	Tunney
Fong	Montoya	Williams

So Mr. ALLEN's motion was rejected.

The ACTING PRESIDENT pro tempore. There is a quorum present.

The pending business is the Hart-Scott amendment No. 1701.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the Hart-Scott amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, once again the leadership must inform the Senate that we have only 65 weekdays before the 2d of October, our target date for sine die adjournment. The way things are going I think we can forget October 2d, October 12 and, very likely, be prepared to come back after the election to dispose of the business already on the calendar, not to mention appropriation bills not yet before the Senate.

It is the intention of the leadership from now on to come in early and to stay late. There will be business every Friday, and there will have to be meetings on Saturdays in the weeks ahead.

All one has to do is to look at the calendar and see what responsibilities confront us at this time; and all one has to do is to see how long we are taking on this particular bill to understand the fact that legislation is piling up, much of it very significant. There are 82 bills on the calendar today. Many are controversial and will require time-consuming debate.

In addition there will be a tax reform bill which should be available for consideration around the middle of the month, and that has a time factor attached to it—the end of this month. And there are 15 major appropriation bills yet to be reported.

It is, therefore, the intention of the joint leadership, if the type of delay and stalling we have seen the past few days continues, to object to any committees meeting from tomorrow or Wednesday on except for extraordinary reasons.

With those few remarks, I will let the Senate decide what its own future procedure will be.

Mr. President, I ask unanimous consent that there appear in the RECORD at this point a digest of the measures on the Senate calendar prepared by the assistant majority leader, Mr. ROBERT C. BYRD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DIGEST OF CERTAIN MEASURES ON THE SENATE CALENDAR OF BUSINESS

S. 625.—Emergency Unemployment Health Benefits Act. The bill provides health insurance benefits to each individual who is unemployed and who is entitled to receive weekly unemployment compensation and who, if still employed, would be covered under an employer-sponsored health insurance plan. Benefits would be paid also to the dependent spouse and each dependent child of such individual. The Secretary of HEW is authorized to enter into arrangements with carriers and State agencies to carry out the provisions of the bill.

H.R. 7727.—Amends the Tariff Schedules of the United States to extend for an additional 2 years, until June 30, 1978, the existing suspension of duties on specified classifications of silk yarn.

S. Res. 302.—An original resolution to establish a Select Committee of the Senate on Improper Activities in the Labor or Management Field. The Committee is directed to study and investigate the extend, if any, to which illegal and unethical activities are engaged in by persons in the field of labor-management relations.

It empowers the Committee with authority necessary to carry out the provisions of the resolution, limits the expenses of the Committee to $1,250,000 through December 31, 1976 and requires the filing of a final report no later than December 31, 1976.

S. 999.—A bill to designate as the J. Allen Frear Building, the Federal office building located in Dover, Delaware.

S. 422.—Children and Youth Camp Safety Act. It requires the Secretary of HEW to develop regulations on children and youth camp safety standards and submit them to the Senate and House Labor Committees for consideration. States are allowed to submit similar plans for approval. The Secretary is required to designate a State agency to administer plans, to provide for legal authority and enforcement, and to review State plans on an annual basis. It authorizes grants of up to 80 percent of the costs of States in carrying out such plans.

S. 2752.—The bill divides the fifth judicial circuit into eastern and western divisions. Alabama, Florida, Georgia, Mississippi, and the Canal Zone are the eastern division. Louisiana and Texas are the western division.

The President is to appoint three additional judges for the eastern division and five additional judges for the western division.

S. Res. 325.—The original resolution adds a new rule XLV to the Standing Rules of the Senate. It would prohibit Senators and employees of the Senate from accepting a gift of travel from any foreign government without the express consent of Congress.

S. 2773.—Amends the Dwight D. Eisenhower Memorial Bicentennial Civic Center Act to change the name of the "J. Edgar Hoover F.B.I. Building" to "F.B.I. Building."

H.R. 9432.—An act to amend the Internal Revenue Code of 1954 to provide for quarterly rather than annual payment to the government of the Virgin Islands as is now provided in the Code.

The payments shall be equal to the internal revenue collections made with respect to articles produced in the Virgin Islands and transported to the United States.

S. 2804.—A bill to amend Title IV of the Social Security Act. It establishes as a condition of eligibility for benefits under the aid to families with dependent children program an individual's participation in the work incentive program of States which offer aid to families with dependent children.

It provides that the Secretary of Labor shall notify the State agency which administers the plan of any refusal by an individual to participate in the State employment program.

H.R. 71 —The bill would provide hospital and medical care to U.S. citizens who served with the armed forces of nations allied or associated with the U.S. in World War I or II. Present law covers only those who were members of U.S. forces.

It would apply to those who were with the British Royal Air Force, for example, or the Polish resistance. Citizens who served with allied nations would be treated only on a space available basis with U.S. veterans given priority.

S. 3219.—(Clean Air) Requires States to submit plans for prevention of significant deterioration of air quality in clear air regions, subject to the approval of the EPA administrator. It establishes guidelines for classification of those regions and imposes limitations on projected increases in concentrations of particulate matter and sulfur dioxide for each class of such regions. And, it requires that new sources constructed in such regions utilize the best available control technology and certify that emissions from the facility will not contribute to a cumulative change in ambient air quality greater than the appropriate limits.

S. 1624.—Interstate transportation of wine. To eliminate obstructions to free flow of commerce resulting from discriminatory and unreasonable taxes or regulations affecting wine.

Prohibits any State which permits transportation or importation of wine from applying tax measures, regulations, and other measures against wines produced outside that State unless applied in same manner as to wine of same class in State seeking to impose tax or regulation. States still retain control over purchase, sale, and distribution of wines in State jurisdiction.

S. 2477.—Lobbying—Requires broad public disclosure of the efforts of individuals and organizations paid to influence or attempt to influence issues before the Congress or the Executive Branch without interfering with the right of citizens to petition the government for redress of grievances.

Covers communications or lobbying solicitations to Congress or the Executive Branch which may be expected to reach 500 or more persons.

Reports must be filed with the Comptroller General on a quarterly basis.

S. Res. 436.—Expresses the support of the Senate for the basic principles and positions which Secretary of State Henry Kissinger expounded in his address as Lusaka, Zambia, on April 27, 1976.

S. Res. 68.—To amend Rule XVIII of the Standing Rules of the Senate. Declares that at any time during the consideration of a bill or resolution in the Senate, it shall be in order to move that no amendment which is not germane or relevant to the subject matter of the bill or resolution shall thereafter be in order.

Any such motion must be agreed to by the affirmative vote of two thirds of the Senators present and voting.

S. 12.—To provide benefits for survivors of Federal Judges. Provides that judicial officials are entitled to the same survivor annuity benefits as survivors of Members of Congress with specified limitations and that a survivor shall not be prohibited from simultaneously receiving an annuity under this act and any other annuity to which the survivor may be entitled.

S. 1284.—Improvement and enforcement of the antitrust laws. It would revise discovery procedures and requirements for antitrust investigations; increase civil penalties for failure to file reports or obey subpoenas as required by the Federal Trade Commission Act; and permits the Attorney General of a State to initiate civil action to recover damages on behalf of certain classes of persons or the State for injuries resulting from violation of Federal antitrust laws.

Also requires premerger notification in order to prevent acquisition of stocks or shares or assets of another person or persons if the acquiring person or persons assets or net sales exceed certain limitations, until 60 days after filing of the notification of merger with the Department of Justice and the Federal Trade Commission.

H.R. 11559.—This bill authorizes an appropriation of $6,470,000 for fiscal year 1977 to carry out programs under the Saline Water Conversion Act of 1971.

H.R. 366.—(Substitute text of S. 230) *infra.*

S. 1776.—Authorizes the Secretary of the Interior to establish the Valley Forge National Historical Park in the Commonwealth of Pennsylvania, not to exceed 3,500 acres.

Also authorizes appropriation of necessary funds.

H.R. 13069.—An act to extend for one year (until September 30, 1977) the period for making loans to the unemployment fund of the Virgin Islands and increases the authorized funds by $10,000,000.

H.R. 5360.—An act to increase detention benefits provided to American civilian internees in Southeast Asia from $60 per month to $150 per month under the War Claims Act of 1948.

S. 2837.—A bill to amend the Act of August 30. 1890, so as to except a tract of ground located in Carbon County, Wyoming from right-of-way reservations for ditches or canals imposed on such land.

S. 972.—Public Safety Officers Memorial Scholarship Act. Authorizes the U.S. Commissioner of Education to award a scholarship to any eligible applicant for full time undergraduate study at an eligible institution. An applicant must be certified by the head of the agency which employed the Public Safety Officer as a dependent of that Officer who was the victim of a homicide while engaged in the performance of his official duties.

H.R. 8523.—Anti-trust—An act to authorize the Attorney General of any State to bring civil action charging unlawful monopoly practices under the Clayton Act and to recover damages for any injury to the general economy of the State or any political subdivision.

The U.S. Attorney General is directed to notify States' Attorneys General of any instances where States are entitled to bring action for violations of the act.

S. 3424.—A bill to minimize the use of energy in housing, nonresidential buildings, and industrial plants through State energy conservation implementation programs and Federal financial incentives and assistance.

S. 230.—Public Safety Officers group Life Insurance Act. Authorizes the purchase of group life insurance policies to insure any public safety officer employed on a full time basis by a State or local government which has applied to participate in the program and has agreed to deduct from officers' pay the premiums payable for coverage.

Eligible insurance companies must be licensed in all 50 States and the District of Columbia and have in effect at least 1% of the total amount group life insurance in effect in the United States.

The act provides that each policy issued shall include a schedule of basic premium rates and for any adjustments. The act also sets forth the order of precedence in which survivors of officers will be awarded benefits.

An Advisory Council established by the bill and the Attorney General would meet at least once annually to review the Administration of the Act. The sum of $20,000,000 is authorized to be appropriated for fiscal year ending September 30, 1977.

H.R. 5465.—An act to allow Federal employment preference to employees of the Bureau of Indian Affairs of the Indian Health Service, who are not entitled to the benefits of, or who have been adversely affected by the application of Federal laws allowing employment preference to Indians. The act defines eligible employees.

H.R. 11439.—An act to amend Title 5, U.S. Code, to restore eligibility for health benefits coverage to certain individuals. It would permit a surviving spouse whose civil service annuity was terminated due to remarriage to enroll in a civil service health benefits plan upon restoration of such spouse's annuity if the spouse was covered by a health benefits plan at the time the annuity was terminated.

H.R. 11481.—An act to authorize the appropriation for the Department of Commerce for the Fiscal Year 1977: (1) $403,721,000 for obligations incurred for operating differential subsidy; (2) $19,500,000 for research and development activities; (3) $4,560,000 for reserve fleet expenses; (4) $13,260,000 for maritime training at the Merchant Marine Academy; and (5) $3,741,000 for financial assistance to State Marine schools.

Authorizes additional appropriations for personnel, maintenance, and other expenses of the Merchant Marine Academy.

S. 3267.—A bill to amend the Motor Vehicle Information and Cost Savings Act to add a new title (Research and Development) to the act. The purpose is to encourage development of advanced, automobiles designed to meet long term goals relative to fuel economy, safety, environmental protection and to facilitate competition in development of existing and alternative automotive vehicles and components.

The Secretary of Transportation is authorized to make contracts and grants and other efforts to achieve the objectives of the bill. It authorizes the appropriation of up to $175,000,000 to pay interest on obligations and the principal balance of obligations, guaranteed by the Secretary when the obligor has defautled.

Annual reports to Congress are required by the bill.

S. 1632.—A bill to authorize the Energy Research and Development Administration to initiate programs and enter contracts for the purpose of developing and producing significant numbers of urban passenger and commercial vehicles utilizing electric propulsion systems.

Authorizes an appropriation of $40,000,000 for each of the Fiscal Years 1976, 1977, and 1978.

S. 2228.—A bill to amend the Public Works and Economic Development Act of 1965 by extending the authorizations for appropriations for an additional three years until September 1979.

S. 3281.—Federal Program Information Act. It creates an information center to establish and maintain a computerized system capable of identifying all existing Federal domestic assistance programs. Identification should be sufficient to allow a prospective beneficiary to determine whether personal qualifications meet requirements for eligbility.

Requires publication of an annual catalogue of domestic assistance programs.

S. 2304.—Prohibits member banks of the Federal Reserve System from making loans or extensions of credit to any of their officers, directors, or other specified persons who have an interest in such bank where such loans or extension of credit exceeds statutory limits under the Federal Deposit Insurance Act, to non-member insured banks. Directors, officers, employees, and agents, and insured banks are subject to cease-and-desist proceedings and orders. Civil penalties for any violations are established.

S. 1926.—A bill to amend the Public Health Service Act so as to eliminate the requirement that health maintenance organizations offer annual open enrollment for individual membership, and makes the offering of supplemental health services optional.

It includes State and local government employers among those who must offer employees the option of membership in a health maintenance organization.

Extends authorization of appropriations an additional two years.

S. 3369.—An act to amend the Small Business Act to increase the authorization for loans for specified small business loan programs including: (1) displaced business disaster loans; (2) loans for the handicapped; (3) the small business investment company program; and (4) loans to State and local development companies.

It increases authorization for loans in urban or rural areas having high proportion of unemployed or low-income individuals, or to businesses owned by low-income individuals.

S. 3370.—A bill to amend the Small Business Investment Act of 1958 by increasing the authorization for the Surety Bond Guarantee Fund by $53,000,000 (from $35,000,000 to $88,000,000).

S. 2212.—A bill to amend the Omnibus Crime Control and Safe Streets Act. Provides that any unused funds reverting the Law Enforcement Assistance Administration may be reallocated among the States. Grants to States may be used to devise methods to strengthen the court system.

LEAA may waive State liability and pursue legal remedies where a State lacks proper forum to enforce grant provisions imposing liability on Indian tribes. Permits LEAA to increase grants to Indian tribes under certain conditions.

S. 3165.—A bill to establish the Office of Marine Resources, Science and Technology within the National Oceanic and Atmospheric Administration. The purpose is to initiate long term research and development programs in marine science and technology. An advisory service would impart useful information and techniques to interested organizations and individuals. Programs would be submitted to the Congress and the President and annual reports would be submitted to the Congress by the Secretary of Commerce.

The bill also establishes a National Sea Grant program for research, education, training and advisory services in ocean and coastal resource development, assessment and conservation.

S. 2069.—A bill to create a Consumer Controversies Resolution Act to assure consumers a mechanism which is fair, effective, inexpensive and expeditious. It directs the Federal Trade Commission to establish a Bureau of Consumer Redress. The FTC shall perform various duties including allocation to States of funds appropriated for financial assistance under cooperative agreements; review of each State's plan for resolution of consumer controversies; and evaluation of goals for a model State System of Consumer Controversy resolutions.

The bill authorizes an appropriation not to exceed $500,000 for Fiscal Year 1976 and $20,000,000 for Fiscal Year 1977.

S. 3131.—Amends the Rail Passenger Service Act by authorizing the National Railroad Passenger Corporation to establish a through route and rate with qualified motor carriers. It authorizes appropriations through Fiscal Year 1978 to the Secretary of Transportation for the benefit of the Corporation: (1) to met specified expenses; (2) for capital acquisitions and improvements; and (3) for the payment of the principal amount of obligations of the Corporation.

S. 2323.—National Traffic and Motor Vehicles Safety Act of 1966. The bill authorizes appropriations of $13,000,000 for the fiscal year 1976 transitional period, $60,000,000 for the fiscal year 1977, and $60,000,000 for fiscal year 1978.

S. 3119. Federal Railroad Safety Authorization Act. The bill would require any common carrier to provide its employees with sleeping quarters having controlled temperatures and located away from areas where switching and other disturbing operations occur. It forbids any crew members of wreck or relief trains from working 16 consecutive hours in any 24 hour period. It sets forth required safety procedures for protection against following or oncoming trains, and for employees working on, under, or about an engine, car, or train.

It divides the Federal Railroad Administration into ten regional offices for administration and enforcement of Federal railroad safety laws.

S. 2184.—A bill to authorize the Secretary of Commerce to participate in the organiza-

tion, planning, design and construction of facilities in connection with the 1980 Olympic Winter Games at Lake Placid, New York. It authorizes an appropriation of $50,000,000.

H.R. 11670. An Act to authorize specified appropriations for the Coast Guard for fiscal year 1977 for vessels and aircraft procurement and for facilities construction. The Act would authorize a year-end strength for active duty personnel and establish average military student loads for fiscal 1977.

S. 2150.—Solid Waste Utilization Act. It directs the Administration of the Environmental Protection Agency to provide financial assistance to each State to: (1) assist in developing a State solid waste management plan; (2) assist the State in the administration of the program; and (3) develop, implement, operate, and enforce State programs for the control of hazardous waste disposal.

The Administrator must develop and implement guidelines and implementation of programs for disposal of solid or hazardous wastes.

Appropriations authorized to the Secretary of Commerce for purposes of the Act are $20,000,000 for each of the fiscal years 1976, 1977, and 1978, and $5,000,000 for the fiscal transitional period ending September 30, 1976.

S. 3037.—Federal Water Pollution Control Act. A bill to authorize the appropriation of seven billion dollars for fiscal year 1977 for the construction of waste treatment works.

S. 3437.—Federal Water Pollution Control Act. An original bill to authorize certain appropriations for the purpose of carrying out the provisions of the Act.

Sections of the Act affected, in brief, are 104(u), 105(h), 107(e), and 113(d).

S. 3438.—Clean Air Act. Section 104(c) of the Act is amended by the authorization of an appropriation of $148,194,700 for the fiscal year ending September 30, 1977.

S. 2872.—Federal Energy Administration Act of 1974. The bill extends the expiration date of the Act to September 30, 1979. It revises requirements for conflicts of interest, disclosure of information and record keeping under the Act. The Federal Energy Administrator shall be afforded an opportunity to comment upon proposed Environmental Protection Agency regulations affecting energy exploration and development.

S. 3439.—(Unfinished Business) Foreign Assistance Act of 1961 and the Foreign Military Sales Act.

H.R. 3650.—A bill to amend Title 5, United States Code, section 8344. It provides for the termination of Federal Civil Service Annuity payments upon the reemployment of specified employees. It further provides for termination of payments upon reemployment on part-time basis for periods equivalent to at least one year of full-time service. And, it provides for termination of payments to annuitants appointed by the President to specified positions covered by civil service retirement.

S. 3105.—Energy Research and Development Administration. The bill authorizes appropriations of certain sums for the following purposes: (1) $4,935,362,000 for nuclear energy research and development, and other purposes; (2) $812,550,000 for nonnuclear research and development and other purposes;

(3) $612,408,000 for environmental research and safety, and basic energy sciences, and for other purposes.

The bill amends prior appropriations acts to increase amounts authorized for specific energy research projects and extends authorizations through fiscal 1977.

S. 2657.—Higher Education Act of 1965 and Vocational Education Act of 1963 Amendments.

The bill extends the Higher Education Act until October 1, 1982 and revises provisions dealing with grants and loans to students and regulations thereof, and repeals sections relative to attracting and qualifying teachers to meet teacher shortages.

It extends the Vocational Education Act until October 1, 1982 and provides for assistance to States to improve methods for using every available resource for vocational and manpower training. Requires establishment of State boards for vocational education in States desiring to participate in the program.

Establishes procedures for States and State boards to apply for funds, submit program plans, and maintain proper fiscal control of funds received.

Establishes various levels of educational and vocational responsibility under the U.S. Commissioner of Education and authorizes apropriations necessary to carry out the provisions of the bill.

H.R. 12987.—A bill to authorize appropriations of sums necessary for fiscal year 1976 and for the transition period ending September 30, 1976 to carry out the purposes of Title VI of the Comprehensive employment and Training Act of 1973.

An emergency job program extension—it requires that not less than 85 percent of the funds for public service employment programs be used only for wages and employment benefits, with the remainder of such funds to be available for administrative costs, supplies, and equipment.

H.R. 9019.—A bill to extend appropriations under the Public Health Service Act for loans and loan guarantees by the Secretary of HEW for health maintenance organizations.

The amount dispursed to a health maintenance organization in any fiscal year is not to exceed $1,000,000.

Employers of not less than 75 individuals are to offer as part of any health benefits plan the option of membership in qualified health maintenance organizations which are engaged in the provision of basic health services in service areas in which at least 25 of such employees reside.

H.R. 5546.—Public Health Service Act Amendments. A bill consisting of nine titles and authorizing appropriations necessary to carry out its provisions for fiscal years 1976, 1977, and 1978, for the following general purposes:

(1) grants for trainees, construction, loan guarantees and interest subsidies, financial distress and scholarship grants; (2) training requirements for physician assistants, nurse practitioners, etc. and bars against discrimination; (3) construction of teaching facilities for medical and health personnel; (4) sets limits on student loans; (5) grants to health profession schools; (6) special project for medical and dental schools; (7) grants for graduate programs in health administration; (8) restrictions on first year medical residency training programs; (9) Secretary of HEW to contract or arrange for studies relative to the distribution of physicians geographically; to classify allied health personnel; to identify costs in each classification and shortages of critical personnel.

S. 3239.—Health Professions Educational Assistance Act. The bill amends the Public Health Service Act to extend appropriation authorizations for specified medical training and education programs through Fiscal Year 1977.

The bill, consisting of 15 titles provides, in general, for the following:

(1) Extension of current authorities through Fiscal Year 1977;

(2) Recruitment of health personnel speaking language of local population;

(3) Establishes limits, conditions, eligibility, and insurance requirements for student loans;

(4) Directs Secretary of HEW to designate health manpower shortage areas. to provide health services to such areas, and to submit annual reports to Congress;

(5) Establishes post graduate physician training relating to geographic needs of physicians in certain specialties;

(6) Restricts alien immigration of foreign medical school graduates who come to the U.S. principally to perform medical services, as well as medical professionals who were granted visitor status while attending U.S. health professional schools;

(7) Develop standards for State licensing of physicians and dentists, and for continuing education programs for doctors and dentists;

(8) Prohibits grants to medical, dental, and other health schools unless certain conditions for enrollment, Federal aid, and other qualifications are met;

(9) Directs Secretary of HEW to make annual grants to schools of Optometry, Pharmacy, Podiatry, and Veterinary medicine;

(10) Directs Secretary of HEW to make annual grants to public or non profit private educational institutions to support graduate health programs;

(11) Directs Secretary to make grants for allied health programs: administrators, supervisors, etc.;

(12) For special project grants and contracts in beginning, or related, or special areas of health education;

(13) Occupational health training and education centers;

(14) Construction of primary health care teaching facilities;

(15) Miscellaneous grants by the Secretary.

S. 2548.—Emergency Medical Services Amendment. A bill to revise provisions of the Public Health Services Act relative to emergency medical service systems including: (1) grants and contracts for establishment and operation; (2) grants and contracts for improvement; and (3) grants and contracts for research in emergency medical techniques.

The bill authorizes an appropriation of $5,083,000 for grants during the transitional quarter ending September 30, 1976, and for additional funds through Fiscal Year 1979.

H.R. 3348.—A bill to amend Title 38 of the United States Code, sections 5054 and 5055, for the purpose of continuing and improving the exchange of medical information between the Veterans' Administration and the medical community.

S. 2035.—Nuclear Fuel Assurance Act. A bill to authorize the Energy Research and Development Administration to enter into arrangements with private enterprise for the production and enrichment of uranium, for technical assistance, for acquisition of equity in such enterprise, and for other purposes.

S. 2661.—Independent Safety Board Act Amendments. The bill directs the Board to prohibit the disclosure of information obtained from an investigation of an aircraft accident or incident when conducted by a foreign state unless the state which conducted the investigation authorizes such disclosure.

S. 3091.—A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974. It directs the Secretary of Agriculture to provide for public participation in the formulation and review of proposed land management plans for units of the National Forest System and to establish procedures for developing such land.

The bill authorizes the Secretary to appraise and sell trees and other forest products in accordance with the principles of the Multiple Use and Sustained Yield Act and repeals the prohibition against sale of forest products outside the State in which the timber is located.

S. 3422.—The Natural Gas Act repeals authority of the Federal Power Commission to regulate the sale of new natural gas sold to a natural gas company for resale in interstate commerce. Producers are prohibited from charging more for natural gas than the applicable ceiling prices.

For a period of seven years from the date of enactment of S. 3422 interstate pipelines are prohibited from paying more than the "onshore price" for new natural gas produced from onshore lands.

The bill continues cost-based regulation under the existing Natural Gas Act for all old gas which is all the flowing and dedicated gas for the interstate market that is not eligible for treatment as new natural gas.

New natural gas is defined as gas dedicated for the first time to interstate commerce on or after January 1, 1976; natural gas produced from newly discovered reservoirs or extensions of existing reservoirs; and natural gas available afte the expiration of short term or emergency contracts.

S. Res. 448.—An original resolution. The purpose is to express the hope of the Congress for the early restoration of peace in Lebanon, and also to express the willingness of the United States to assist in Lebanese relief and reconstruction.

H.R. 8948.—A bill to amend the Accounting and Auditing Act of 1950. It directs the Comptroller General of the United States to make audits of the Internal Revenue Service and of the Bureau of Alcohol, Tobacco, and Firearms. The Comptroller General is required to report annually to the Congress on the results of such audits.

S. 2849.—A bill to amend the Investment Advisers Act of 1940. It authorizes the Security and Exchange Commission to establish standards for investment advisers and associated persons relative to training, experience, competence and other appropriate qualifications. The SEC is authorized to promulgate rules and regulations in the public interest to protect investors, to create advisory committees, employ experts, and hold public hearings.

S. Con. Res. 105.—A resolution expressing the sense of the Congress that the United States reaffirms a sympathetic interest in Italian democracy and democratic institutions. It expresses the sense of the Congress that the United States is willing to participate in efforts to provide assistance to Italy through the proposed OECD Special Financing Facility with the assistance of other friends and allies of Italy.

S. 3084.—A bill to amend the Export Administration Act of 1969 so as to extend for three years the authority granted under the Act to regulate exports.

S. 2343.—A bill to amend the Communications Act of 1934 by increasing the maximum fines which may be imposed on an individual for violations of FCC regulations.

S. 3063.—A bill to designate the Ozark Lock and Dam on the Arkansas River as the Ozark-Jeta Taylor Lock and Dam.

H.R. 12169.—A bill to amend the Energy Policy and Conservation Act. It authorizes appropriations for Federal Energy Administration functions for which no specific authorization exists in law, and limits aggregate appropriations to the Administration to $1,000,000,000 and extends FEA authority through fiscal 1979. The bill revises provisions of the Energy Policy and Conservation Act relating to unfair and deceptive trade practices, Presidential requests for Congressional action, and motor vehicle fuel economy standards. It revises penalty provisions for violations of pricing regulations under the Emergency Petroleum Allocation Act of 1973.

NOTE. There are, in addition to the above, 15 major appropriation bills still to be reported.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The ACTING PRESIDENT pro tempore. The question now is on agreeing to the Scott-Hart amendment.

AMENDMENT NO. 1768

Mr. GRIFFIN. Mr. President, I send an amendment to the desk and ask that it be stated.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan (Mr. GRIFFIN) proposes an amendment:

On page 29, lines 2 and 3, strike "and in any class action on behalf of natural persons under section 4 of this Act,".

Mr. GRIFFIN. Mr. President, I am hopeful that this amendment——

The ACTING PRESIDENT pro tempore. Will the Senator suspend until we can get order in the Senate so the Senator can be heard. Will the Senators take their seats or retire to the cloakroom with their conversations.

The Senator from Michigan may proceed.

Mr. GRIFFIN. I am hopeful that this amendment may be accepted by the sponsors of this substitute.

I call attention to the fact that on page 29, beginning on line 1 of the substitute bill, it provides that:

In any action brought under such section (a) (1) of this section—

The parens patriae provisions—

damages may be proved and assessed in the aggregate on the basis of statistical or sampling methods, or such other reasonable method of estimation as the court in its discretion may permit * * *

This substitute also provides for a new and different method of determining damages to apply in any class action on behalf of natural persons under section 4 of this act.

I submit that it is one thing to allow this new and novel method of determining damages in the case of an action brought by a State attorney general under the parens patriae provisions, but it is quite another, it seems to me, to make this apply to any class action. The courts have over the years developed—and there have evolved—various rules and procedures which are considered to be fair and necessary to all parties in the determination of damages. If an action is capable of being brought in the manner presently available under rule 23 of the Federal Rules of Civil Procedure these traditional methods of proving damages should not be cast aside.

My amendment would only strike out that particular language which permits aggregation of damages in class action and would leave standing the method of aggregating in the case of suits brought under the parens patriae provisions.

This just happens to be one of a number of objections to the present bill lodged by the administration. It would be a small step, I suggest, in the direction of getting wider support for the final product.

Mr. MORGAN. Mr. President, while I personally do not share the concern and fear of my distinguished colleague from Michigan about this provision, I do understand that this is one of the major objections of the administration.

If it will make the bill more palatable to the administration, the sponsors of the bill are willing to accept the amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment.

AMENDMENT NO. 1757

Mr. ALLEN. Mr. President, I call up amendment No. 1757.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an amendment No. 1757.

The amendment is as follows:

Strike all starting with page 3, line 4, through page 32, line 18, and insert the following:

TITLE II

SEC. 201. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), is amended by inserting immediately after section 4B the following new sections:

"ACTIONS BY STATE ATTORNEYS GENERAL

"SEC. 4C. (a) Any State attorney general may bring a civil action, in the name of the State, in the district courts of the United States under section 4 of this Act, and such State shall be entitled to recover threefold the damages and the cost of suit, including a reasonable attorney's fee, as parens patriae on behalf of natural persons residing in such State injured by any violation of the Sherman Act.

"(b) In any action under subsection (a), the court may in its discretion, on motion of any party or on its own motion, order that the State attorney general proceed as a representative of any class or classes of persons alleged to have been injured by any violation of the Sherman Act, notwithstanding the fact that such State attorney general may not be a member of such class or classes.

"(c) In any action under subsection (a), the State attorney general shall, at such time as the court may direct prior to trial, cause notice thereof to be given by publication in accordance with applicable State law or in such manner as the court may direct; except that such notice shall be the best notice practicable under the circumstances.

"(d) Any person on whose behalf an action is brought under subsection (a) may elect to exclude his claim from adjudication in such action by filing notice of his intent to do so with the court within sixty days after the date on which notice is given under subsection (c). Then final judgment in such action shall be res judicata as to any claim arising from the alleged violation of the Sherman Act of any potential claimant in such action who fails to give such notice of intent within such sixty-day period, unless he shows good cause for his failure to file such notice.

"(e) An action under subsection (a) shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given in such manner as the court directs.

"(f) In an action under subsection (a) or (b), the court may in its discretion award a reasonable attorney's fee to a defendant upon a finding that the action is frivolous or that the State attorney general has acted in bad faith, vexatiously, wantonly, or for oppressive reasons.

"MEASUREMENT OF DAMAGES

"SEC. 4D. In any action under section 4C (a) or (b), in which there has been a determination that the defendants agreed to fix prices in willful violation of the antitrust law, damages may be proved and assessed in the aggregate by statistical or sampling methods by the computation of illegal overcharges, or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought: *Provided*, That any damages awarded against a defendant which are proved and assessed in the aggregate as provided in this section shall be reduced to actual damages and the cost of suit, including reasonable attorney's fees, if the defendant establishes that he acted in good faith and without reasonable grounds to believe that the conduct in question violated the antitrust laws.

"DISTRIBUTION OF DAMAGES

"SEC. 4E. Damages recovered under section 4C(a) shall be distributed in such manner as the district court in its discretion may authorize, subject to the requirement that any distribution procedure adopted afford each person a reasonable opportunity to secure his appropriate portion of the damages awarded less unrecovered costs of litigation and administration.

"ACTIONS BY ATTORNEY GENERAL OF THE UNITED STATES

"SEC. 4F. (a) Whenever the Attorney General of the United States has brought an action under section 4A of this Act, and he has reason to believe that any State attorney general would be entitled to bring an action under section 4C(a) based substantially on the same alleged violation of the Sherman Act, he shall promptly give written notification to such State attorney general with respect to such action.

"(b) To assist a State attorney general in evaluating the notice and in bringing any action under section 4C of this Act, the Attorney General of the United States shall, upon request by such State attorney general, make available to him, to the extent permitted by law, any investigative files or other materials which are or may be relevant or material to the actual or potential cause of action under section 4C.

"DEFINITIONS

"SEC. 4G. For purposes of this section and sections 4C, 4D, 4E, and 4F:

"(1) The term 'State attorney general' means the chief legal officer of a State, or any other person authorized by State law to bring actions under this Act; except that such term does not include any person employed or retained on a contingency fee basis.

"(2) The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

"(3) The term 'Sherman Act' means the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1, et seq.)).

"(4) The term 'natural persons' does not include proprietorships or partnerships.

"SEC. 4H. This title shall be applicable in a particular State until that State shall provide by law for its nonapplicability as to such State.".

SEC. 202. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), is amended—

(1) in section 4B (15 U.S.C. 15b), by striking out "4 or 4A" and inserting in lieu thereof "4, 4A, or 4C";

(2) in section 5(b) (15 U.S.C. 16(b)), by striking out "private right of action" and inserting in lieu thereof "private or State right of action"; and by striking out "section 4" and inserting in lieu thereof "section 4 or 4C"; and

(3) by adding at the end of section 16 (15 U.S.C. 26) the following: "In any action under this section, the court shall award reasonable attorneys' fees to a prevailing plaintiff.".

Mr. ALLEN. Mr. President, this amendment would provide for substituting for title 4 the provisions of the House-passed bill with the addition of the amendment which has been approved by the Senate by unanimous vote.

It was the amendment of the Senator from Alabama, called up by the distinguished Senator from North Carolina (Mr. MORGAN), the floor manager of the bill, that would provide that this title 4 shall apply throughout all 50 States, I believe the territories as well, until such time as a State came out from under by appropriate legislative action, the provisions of title 4.

It gives the States the option of not availing themselves of the provisions of title 4.

So what it would do is to provide for the parens patriae provision being in the form of the House bill rather than the form of the Senate bill which has been amended in some particulars already.

But this would assure the agreeing on this particular provision in the form of the House bill and having in it the quasi local option, we might say, provision inserted by the Senate at the instance of the floor manager of the bill.

I call for the yeas and nays, Mr. President.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MORGAN. Mr. President, most of the provisions of the Senator's amendment have already been voted on, but the total effect of the amendment, among many other things, would be to return back to the House provision which would limit the use of parens patriae only to willful price fixing—just willful price fixing, not to other acts in restraint of trade.

The Senate will recall I have already offered an amendment which has been adopted which restricted the use of parens patriae to per se violations.

Also, in his amendment, there would be no contingency fees, which were voted on specifically last week, and it would have the total effect of doing away with treble damages, reducing treble damages down to single damages. This would say, in effect, to a violator, "Go on and violate the law of fixed prices if you want to and, if you get caught, all you will be liable for is just whatever you gyp the public out of, to begin with."

Also, Mr. President, it knocks out title II, which the President supports.

Since we have debated all of these issues, I move——

Mr. BURDICK. Before the manager of the bill moves to table, may I have a word or two on my own time?

Mr. MORGAN. Yes.

Mr. BURDICK. May I ask the distinguished Senator from Alabama about section 4D of his amendment?

I notice that he has in section 4D the permission to recover fluid damages, which I find quite objectionable from a constitutional point of view.

Mr. ALLEN. This is the bill as it passed the House, but it does have the proviso, I call to the Senator's attention, that any damages awarded against a defendant which are proved and assessed in the aggregate as provided in this section shall be reduced to actual damages and the cost of the suit, including reasonable attorneys' fees, if the defendant establishes that he acted in good faith and without reasonable grounds to believe that the conduct in question violated the antitrust laws.

So that would eliminate the fluid damage as to that type.

Mr. BURDICK. Any damages awarded against a defendant which are approved in excess of aggregate shall be reduced to actual damages?

Mr. ALLEN. Yes.

Mr. BURDICK. In the end, it does require the benefit of actual damages then?

Mr. ALLEN. Shall be reduced to actual damages. Yes, we have to prove actual damages, which will remove it from the fluid damage aspect the Senator objects to.

Mr. BURDICK. I thank the Senator.

The PRESIDING OFFICER (Mr. SPARKMAN). The Senator from North Carolina.

Mr. MORGAN. Inasmuch as all these points have been debated at length before and time is limited under the cloture vote, I move that the amendment of the Senator from Alabama be laid on the table.

Mr. ALLEN. Will the Senator withhold that for just a moment so that I can answer the point the Senator made?

The PRESIDING OFFICER. Does the Senator withhold it?

Mr. MORGAN. Yes, I withhold, provided it does not count on my time.

Mr. ALLEN. Mr. President, it is true this amendment would eliminate contingent fees paid to lawyers.

In one case of the fees there were $41 million paid to lawyers.

This bill is going to benefit lawyers more than it will benefit anybody else.

So it does eliminate the power of the attorney general to spread these antitrust actions all over the State to political favorities on a contingency fee basis. I think the fact that the attorney general can act in that fashion and that contingent fees are paid and that they would eat up the bulk of whatever judgment was given in court, is the very reason why we should return to the House language. I appreciate the Senator's withholding his motion to table.

Mr. MORGAN addressed the Chair.

Mr. HELMS. Will the Senator yield on my time?

Mr. MORGAN. Yes.

Mr. HELMS. Mr. President, in the

June 5 edition of the Baltimore Sun, under the headline "Alderman is Indicted," there is a news story that is quite relevant to the issue at hand.

The Alderman referred to in the headline is R. Bruce Alderman, a former Baltimore County solicitor who was indicted by a Federal grand jury on charges of sharing in a $24,474 kickback scheme.

Mr. President, in a moment I am going to ask unanimous consent that the entire article be printed in the RECORD, but suffice it to say that the apprehensions of the Senator from Alabama (Mr. ALLEN) and others in this Senate are borne out by this episode, that contingent fee arrangements are an invitation to corruption.

On Friday, the Senator from North Carolina referred to a number of horror stories which had previously been alluded to in this Chamber by the distinguished Senator from Idaho (Mr. MCCLURE). I think Senators ought to think carefully about what they are doing in connection with this bill because the consumer, whom all of us say we are trying to protect, is precisely the one who is going to be ripped off if this bill does in fact becomes law.

Mr. President, I ask unanimous consent that the article from the Baltimore Sun of June 5 be printed in its entirety at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, June 5, 1976]

ALDERMAN IS INDICTED

R. Bruce Alderman, the former Baltimore county solicitor was indicted by a federal grand jury on charges of sharing in a $24,474 kickback scheme by allegedly using his public office to influence the selection of a Chicago law firm to do county business.

The 13-count indictment was announced by the United States attorney's office yesterday just two hours before Dale Anderson, the former county executive, was released by a federal judge on a motion that pleaded prison hardships.

Anderson had served 13 months and 2 weeks of a 5-year federal prison term after his 1974 conviction on conspiracy, extortion and tax evasion.

Anderson was named as a participant in the kickback scheme and a recipient of kickback money. He was not, however, indicted, a fact that led to speculation he might testify for the government.

Barnet D. Skolnik, a federal prosecutor, refused to comment when asked about this possibility.

Charges against Mr. Alderman, 43 were brought under mail-fraud statutes and federal laws prohibiting the interstate transportation of checks in the aid of a bribery-racketeering enterprise.

Mr. Alderman's federal grand jury indictment alleges that the former county lawyer shared the kickback fees with Anderson and James D. Nolan, a Towson lawyer and confidant of Anderson during the 1969 to 1972 period covered by the charges.

Mr. Nolan, who was named as an unindicted co-conspirator in the indictment, apparently has been co-operating with federal investigators for several years.

Asked whether Mr. Nolan had been granted immunity from prosecution, Jeffrey S. White, an assistant U.S. attorney, refused to make any comment.

Another lawyer, William L. Siskind, a hotel and apartment construction entrepreneur, was named in the indictment as agreeing to share legal fees with Mr. Nolan in connection with the scheme.

Mr. Siskind was not named as a defendant in the case. The indictment states that he first suggested the Chicago firm to Mr. Nolan and that he agreed to split the fees with his fellow lawyer on a 50–50 basis.

According to the indictment, Mr. Alderman concealed from the Baltimore County Concil "the existence of the corrupt relationship" between himself and others in arranging for a Chicago law firm to do county business.

Mr. Alderman allegedly obtained the council's permission to pay the Chicago law firm $25,000 to represent the county in antitrust suits against a supplier of equipment to the county.

According to the indictment, Mr. Alderman concealed the fact that he was sharing with Mr. Nolan and Anderson part of the fees that resulted in the filing and settlement—for triple damages—of the civil antitrust suits.

The charges state that the payments allegedly made to Mr. Alderman and Anderson were disguised by false entries to create the "misleading impression" that the payments were fees for referring clients to Mr. Nolan.

The Chicago law firm, Friedman, Koven, Salzman, Koenigsberg, Specks and Homen, had represented many municipalities in filing antitrust suits and, during 1967, was interested in doing such work in Maryalnd.

According to the federal charges, Mr. Siskind, through his law firm, Siskind and Tabor, made an agreement with the Chicago firm to split on a 50–50 basis any legal fees derived from antitrust matters in Baltimore county.

Mr. Siskind, the charges state, contacted Mr. Nolan in 1967 and agreed to a 50–50 split of the legal fees received by the law firm of Siskind and Tabor for antitrust suits filed on behalf of Baltimore county.

Fee-splitting is legal and widely practiced among lawyers. It would, however, be illegal if the lawyers knew the money being split was part of a bribery scheme.

According to the allegations, Mr. Nolan contacted Anderson and Mr. Alderman, who was county solicitor, and agreed to the split of fees. Mr. Alderman allegedly concealed this fee-splitting when he obtained permission from the County Council to hire the Chicago firm.

From "time to time during the period 1969 through 1972" Mr. Alderman asked the council to approve contratcs under which the Chicago firm would represent the county in specific suits.

If convicted on the charges, Mr. Alderman faces a maximum prison term of 65 years. Mr Alderman's lawyer, Brenden V. Sullivan, Jr., said he would have no comment on the charges.

According to Jervis S. Finney, the U.S. attorney, the charges were returned late Thursday afternoon by a new regular grand jury that had been organized only that morning.

Obtaining the charges from the jury just before Anderson's hearing on a motion to reduce his sentence was "a coincidence," Mr. White said.

Judge Joseph H. Young, who yielded to Anderson's plea for release from the Allenwood (Pa.) federal prison facility, has been assigned the new indictment against Mr. Alderman.

Judge Young said that he was "slightly embarrassed" by the timing of the indictment against Mr. Alderman, which came just before he held the hearing for Anderson.

Judge Young said he was not aware that Mr. Alderman had been charged until after the hearing had been arranged. Actually, Anderson's hearing had been set two weeks ago but was delayed after Mr. Skolnik pleaded that he might be invoved in the trial charges against Governor Mandel and five asociates.

When Mr. Mandel's trial was delayed until September 8, Judge Young said he arranged immediately to hear Anderson's plea, which was made by Anderson's lawyer, Norman P. Ramsey.

The judge said the impending charges against Mr. Alderman had no influence on his decision to release Anderson.

A federal court arraignment for Mr. Alderman is expected to be set for late next week.

Mr. MORGAN. Mr. President, I believe we debated this very issue last week. We pointed out that in this bill there are safeguards against such abuses in that the judge determines the fee. I would say that the argument of my distinguished colleague from North Carolina reminds me of the comments that I had to make Saturday night at a meeting in North Carolina.

I pointed out that because of the abrasive conduct and the alleged abuses of one or two Members of this Congress, in the minds of many people the whole Congress was indicted. I said then that if one should stop and count up all of the cases of misconduct or wrongdoing by Members of the Congress for the last 50 years they would probably run out before they ran out of fingers.

I also pointed out that two of my distinguished colleagues, Senator MANSFIELD and Senator PHILIP HART, are retiring at the end of this year with a combination of probably more than 73 years of dedicated public service to the people of this Nation. Their retirement, after all of that public service, has hardly been noted by the press.

It is the exceptions that always get the notoriety, such as the ones referred to by my distinguished colleague from North Carolina.

Again, Mr. President, the amendment has been debated. I move that the amendment lay upon the table.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. GARY HART). Is there a sufficient second? There was a sufficient second.

The yeas and nays are ordered, and, the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from California (Mr. TUNNEY), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Texas (Mr. BENTSEN) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Utah (Mr. GARN),

the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Ohio (Mr. TAFT), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

The result was announced—yeas 46, nays 33, as follows:

[Rollcall Vote No. 225 Leg.]

YEAS—46

Abourezk	Hart, Philip A.	McIntyre
Biden	Hartke	Mondale
Brooke	Haskell	Morgan
Burdick	Hatfield	Nelson
Byrd, Robert C.	Hathaway	Pastore
Case	Huddleston	Percy
Clark	Inouye	Proxmire
Cranston	Jackson	Randolph
Culver	Kennedy	Ribicoff
Durkin	Leahy	Schweiker
Eagleton	Long	Scott, Hugh
Fong	Magnuson	Stafford
Ford	Mansfield	Stevenson
Glenn	Mathias	Weicker
Gravel	McGee	
Hart, Gary	McGovern	

NAYS—33

Allen	Eastland	Pearson
Baker	Fannin	Roth
Bartlett	Griffin	Scott, William L.
Beall	Hansen	Sparkman
Brock	Helms	Stennis
Byrd, Harry F., Jr.	Hollings	Stevens
Cannon	Hruska	Stone
Chiles	Johnston	Talmadge
Curtis	McClellan	Tower
Dole	McClure	Young
Domenici	Metcalf	
	Packwood	

NOT VOTING—21

Bayh	Goldwater	Nunn
Bellmon	Humphrey	Pell
Bentsen	Javits	Symington
Buckley	Laxalt	Taft
Bumpers	Montoya	Thurmond
Church	Moss	Tunney
Garn	Muskie	Williams

So the motion to lay on the table was agreed to.

Mr. MORGAN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. McINTYRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1761

Mr. BURDICK. Mr. President, I call up my amendment No. 1761, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from North Dakota (Mr. BURDICK) proposes Amendment No. 1761.

The amendment is as follows:

On page 29, strike lines 1 through 8.

On page 29, line 16, delete the period and add: ": *Provided*, That the court may, after determination of the amount of injury to the natural persons of the State, assess a civil penalty to compensate for any unjust enrichment which may have accrued to the defendant.".

Mr. BURDICK. Mr. President, I ask unanimous consent that a technical modification of the amendment be adopted which involves the change of one word, the change of "unjust" to "wrongful".

The PRESIDING OFFICER. Is there objection?

Mr. MORGAN. Mr. President, reserving the right to object, on what line is that?

Mr. BURDICK. The Senator will find that beginning on page 29, line 16. I thought he had a copy of the amendment before him.

Mr. MORGAN. Mr. President, I have no objection.

Mr. BURDICK. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 29, strike lines 1 through 8.

On page 29, line 16, delete the period and add: ": *Provided*, That the court may, after determination of the amount of injury to the natural persons of the State, assess a civil penalty to compensate for any wrongful enrichment which may have accrued to the defendant.".

Mr. BURDICK. Mr. President, title IV introduces a new concept for the recovery of damages in antitrust enforcement. It is intended that this procedural device, termed "fluid recovery," will allow plaintiffs to recover damages in the case of a minor overcharge on a mass scale.

I am in agreement with the majority in seeking a solution to the problem. However, the means by which title IV proposes to remedy the matter is constitutionally unacceptable. It would authorize damages in a parens patriae suit brought by the Attorney General to be "proved and assessed in the aggregate" on the basis of sampling or statistical estimates without separately proving the fact or amount of individual injury or damage to natural persons.

I am in agreement that a violator of our antitrust laws should not profit from his wrongdoing. However, I find the provisions of title IV, which would award damages to a "fluid class" of undetermined and unidentified persons, the members of which may or may not be the same consumers who actually suffered injury, unacceptable and legally defective. Adding to my concern over this provision is the fact that the fluid portion of the award is treated exactly like damages to consumers who have proven their claims; the fluid portion is also trebled, thereby magnifying the potential for taking of property without actual proof.

This theory flies in the face of the due process clause of the Constitution, and repudiates a legal system that awards damages only upon adequate proof, first, that the defendant committed a legal wrong; second, that the wrong actually injured the plaintiff; and third, that the plaintiff suffered damages in a reasonably ascertained amount. The court in the case of *Eisen* v. *Carlisle & Jacquelin*, 479 F. 2d 1005 (2d. Cir. 1973), termed "fluid recovery" a "fantastic procedure". It is indeed a fantastic departure from the fundamental guarantees of due process that we have known through the years, and in every case where it has been contested by the defendant, "fluid recovery" has been rejected by the court.* These decisions should operate as a red flag to those who seize upon this method in order to prevent a wrongdoer from becoming unjustly enriched. I have no quarrel with the good intentions of the proponents, but there still must be compliance with the law of the land. There are other ways to prevent unjust enrichment, without infringing on due process.

Both the second and ninth circuits have also found "fluid class recovery" unacceptable, and rejected it. The court stated in the Eisen III case, which is the leading case on this subject,

Even if amended Rule 23 could be read so as to permit any such *fantastic procedure, the Courts would have to reject it as an unconstitutional violation of the requirement of due process of law.* But as it now reads, amended Rule 23 contemplates and provides for no such procedure.

And this is important.

Nor can amended Rule 23 be construed or interpreted in such fashion as to permit such procedure. *We hold* the "fluid recovery" concept and practice to be illegal, inadmissible as a solution of the manageability problems of class actions and wholly improper." (Emphasis added). *Eisen* v. *Carlisle & Jacquelin*, 479 F. 2d 1005, 1018 (2d Cir. 1973)

This case was appealed to the U.S. Supreme Court, and remanded upon the question of notice. That part of the decision dealing with the question of "fluid damages" was not appealed nor disturbed. *Eisen* v. *Carlisle* 417 U.S. 156, (1974).

Ninth circuit courts have echoed the Eisen opinion. It is stated in *In re Hotel Telephone Charges*, 500 F. 2d. 86, 89 (9th Cir. 1974).

The antitrust laws focus on the compensation of parties *actually injured*, presupposing that a *plaintiff can prove that he was in fact injured* as a proximate result of an antitrust violation, *Hawaii* v. *Standard Oil Co.*, 405 U.S. 251 (1972). The fact that the injured plaintiff is allowed treble damages does not change the basic nature of the private antitrust action as an action intended to compensate. When, as here, there is no realistic possibility that the class members will in fact receive compensation, then monolithic class actions raising mind boggling manageability problems should be rejected. (Emphasis added.)

Another panel of the ninth circuit rejected the fluid recovery concept in *Kline* v. *Caldwell, Banker & Co.*, 508 F. 2d 266 9th Cir. 1974. In that massive class-action case, the court noted that "plaintiffs must prove both that the defendants' conduct contravened section 1 (of the Sherman Act) and that the plaintiffs suffered injury as a direct result of the illegal conduct." Pages 230–31—emphasis in original. The court held that, because "(p)roof of injury is an essential sub-

* *Hawaii* v. *Standard Oil Co.*, 405 U.S. 251 (1972); *Eisen* v. *Carlisle & Jacquelin*, 479 F. 2d 1005 (2d Cir. 1973); In re *Hotel Telephone Charges*, 500 F. 2d. 86 (9th Cir. 1974); *Kline* v. *Caldwell, Banker & Co.*, 508 F. 2d. 226 (9th Cir. 1974); *City of Philadelphia* v. *American Oil Co.*, 53 F.R.D. 45 (D.N.J. 1971); *Windham* v. *American Brands, Inc.* — F. Supp. — (D.S.C. 1975) (CCH Trade Cas. ¶ 60, 530)

stantive element of the successful treble damage action", each class member would have to prove to a jury that he had sustained actual injury resulting from a particular defendant's violation, page 233. Judge Duniway in a concurring opinion expressed alarm at the practical consequences of such a "judicial juggernaut". He went on to explain:

> It is inconceivable to me that such a case can ever be tried, unless the court is willing to deprive each defendant of his undoubted right to have his claim liability proved, not by presumptions or assumptions, but by facts, with the burden of proof upon the plaintiff or plaintiffs, and to offer evidence in his defense. The same applies, if he is found liable, to proof of the damage of each "plaintiff". Page 236.

The most recent case to repudiate the "fluid clause recovery" theory embodied in title IV is *Windham* v. *American Brands, Inc.*, (D.S.C. 1975) (CCH Trade Cas. § 60,530).

This was decided just last year. I do not even have the citation. It was decided in 1975. I think the manager of the bill knows something about the case, because it involves the tetracycline legislation. The court there refused to accept a theory of fluid recovery damages similar to that used in the settlement of the tetracycline antibiotic drug litigation, noting that such an approach "has been rejected by subsequent opinions, the reasoning of which the court adopts—referring to Eisen III—pages 67, 345. The court further states, "aside from proof of liability, determining the amount of damages and a proper distribution thereof would result in an unfair trial if a fluid recovery approach were utilized. * * *" Pages 67, 346.

This involves the tetracycline cases, in which there was a settlement reached by agreement with the parties. But for some reason, in this particular area of the country, the settlement could not be made and it went through litigation. When it was litigated, the court rejected that theory.

The most troublesome aspect of the fluid class recovery scheme is that those who are injured by the defendant's wrongdoing will often times go uncompensated while others who did not suffer from the defendant's act will be blessed with a windfall because they have become a member of the fluid class after the fact of injury. It is for this reason that the fluid class device was rejected in *City of Philadelphia* v. *American Oil Co.* 53 F.R.D. 45, 72 (D. N.J. 1971) which found that "the composition of the motoring public which purchased from retail stations has changed considerably during and since the alleged conspiracy ended."

This lack of direct compensation to the injured party is especially disturbing in light of the fact that antitrust law has traditionally been based upon compensatory theory. The Clayton Act (15 U.S.C. sec. 15) provides that a person injured by reason of an antitrust violation may recover threefold the damages he sustained. Treble damages were intended by Congress to compensate victims and to encourage them to come forward and bring suit. There is nothing to suggest it was not the plaintiff's injury but the defendant's illegal profits that is the basis for treble damages.

In keeping with this theory and due process considerations, I contended in committee that title IV should be amended to allow compensation and treble damages only to those consumers who come forward with proof of loss as a result of the antitrust violation. This is in accordance with the procedure outlined in *Darr* v. *Yellow Cab Co.*, 433 P. 2d 732 (1967). At page 740 the Court states:

> The fact that the class members are unidentifiable at this point will not preclude a complete determination of the issues affecting the class. Presumably an accounting in the suit at bench will determine the total amount of the alleged overcharges; any judgment will be binding on all the users of the taxicabs within the prior four years. *However, no one may recover his separate damages until he comes forward, identifies himself and proves the amount thereof.* (Emphasis added)

The amount of the total injury not claimed should be then labeled exactly what it is intended to be, a penalty to prevent unjust enrichment of the wrongdoer.

Any procedure that would rely upon a theory of damages, treble or single, to exact from the defendant the difference between the total injury and that actually claimed by individuals would be an unconstitutional taking of defendant's property without due process of law. I would not contend that the defendant has a constitutional right to retain his illegal profits. The court, by way of penalty, should deprive him of these profits in order to discourage and deter further violations.

However, if this unclaimed difference is to be labeled damages, and then trebled, the result is simply a taking of property from the defendant without the necessary showing of injury to an actual person, required under a theory of damages. The trebling of this amount serves to make the "fluid recovery" concept even more constitutionally repugnant.

Those who would support the fluid recovery theory as a method to deprive a wrongdoer of his ill-gotten gains have the wrong method. As suggested by the witnesses appearing for the American Bar Association, "this objective should be accomplished by the direct means of increased corporate and individual fines pursuant to the recently enacted Antitrust and Penalties Act. If experience shows that these new penalties are insufficient, Congress has the authority to create more severe punitive measures. Title IV of S. 1284 cannot be expected to do the job."

I support the compensatory theory of present antitrust law and treble damages to parties who have proven injury. I also support a plan which would deter further violations by depriving wrongdoers of their ill-gotten gains. But when a theory of damages, and not a penalty, is used to divest the defendant of his ill-gotten profits, even though there is no known injured party, the defendant is deprived of his property without due process of law as prohibited by the fifth amendment of the Constitution.

Therefore, I accept the solid weight of judicial authority which rejects the fluid recovery mechanism embodied in title IV of S. 1284 as an unconstitutional expedient whose defects cannot be cured by inclusion in a statute. It is for these reasons I cannot support title IV in its present form.

Mr. President, Mr. Allen C. Holmes testified for the American Bar Association on S. 1284 and paid particular attention to title IV. The conclusion reached was very similar to mine, and I ask unanimous consent that his statement, which was made before the Committee on the Judiciary, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TITLE IV

As Mr. Millstein stated, the American Bar Association has previously testified before the Antitrust and Monopoly Subcommittee with respect to Title IV of this bill. On May 7, 1975, Mr. Walker B. Comegys testified for the American Bar Association expressing the views that had been set forth in a resolution adopted by the ABA a few months earlier in connection with the similar parens patriae legislation pending in the House of Representatives.

Since that time, Title IV has been the subject of substantial revision prior to being reported to this Committee by the Antitrust and Monopoly Subcommittee.

We are pleased to note that the Subcommittee did make certain amendments which the ABA, among other witnesses, had suggested and, in particular, the deletion of the state Attorneys General authority to institute damage suits on behalf of corporations and other businesses residing in the state, and the deletion of the language which would have required the Attorney General of the United States to institute a suit on behalf of the citizens of a state when a state Attorney General has not done so.

We also understand that amendments have been recommended by Senators Hart and Scott which will delete the provision which would authorize state Attorneys General to bring suits to recover for damages to the general economy of a state, whether measured by any decrease in revenues or increase in expenditures or otherwise.

This amendment is of particular importance for, as Mr. Comegys testified, such damages would invariably lead to duplicative recoveries despite efforts to avoid such duplication. Any recovery for damage to the "general economy" of a state would, moreover, result in a dollar figure that would be totally speculative and unrelated to any actual harm that might have been caused by an antitrust violation. It is essential that this concept be deleted from the bill.

We do note that certain of the changes which Mr. Comegys suggested last May have not been adopted in the bill that was reported to the Committee, and we urge that our previous recommendations be reconsidered by the full Committee.

Finally, and of greatest importance, the bill that was reported to this Committee would apply in a most significant respect to private class actions instituted under the antitrust laws, and in so doing, would introduce concepts of very questionable constitutionality which are totally foreign to private suits and to the purpose of parens patriae legislation itself.

As Mr. Comegys stated in his testimony, the ABA agrees whole-heartedly with the concept of seeking a means to redress any widespread consumer harm of small individual claims arising from antitrust violations. We believe that it is essential that

those who engage in antitrust violations which have the most direct consumer impact should not be permitted to retain the profits of their wrongful acts. On the other hand, a defendant has the right to a fair hearing with all constitutional safeguards. Accordingly, so long as those rights are protected, Congress and the courts should provide whatever remedies are available which, in fact, permit the recovery of damages to consumers injured by antitrust violations.

We say again what we said last May: Antitrust suits instituted by a state Attorney General for damages on behalf of the consumer citizens of the state could, in fact, be such a remedy. We urge that a very simple and straightforward bill providing for representative actions by the States attorneys general under Rule 23 of the Federal Rules of Civil Procedure would fully accomplish such goals while protecting the rights of defendants.

As originally drafted, Title IV authorized the court, in its discretion, to determine when the interests of justice requires that a suit instituted by a State attorney general on behalf of citizens of the state should only proceed as an action subject to the requirements of Federal Rule 23. We endorsed that attorney general class suit concept as to consumers, but we urged that the other forms of attorney general suits contemplated by the bill be rejected because they deprived defendants and class members of basic constitutional rights, including the right to a fair hearing, adequate notice, and substantive due process of law.

Unfortunately, the bill reported by the Subcommittee deleted the Rule 23 alternative entirely. In its place, the bill retained the concept of suits for damages to the general economy—which we understand is now being deleted—and the concept of state Attorney General civil actions to recover damages for natural persons residing in the state. Such suits would not be subject to the protection afforded by Rule 23.

We respectfully submit that this Committee should consider in depth whether it would be more appropriate simply to amend the law so as to provide that a State attorney general is an adequate representative, within the meaning of Rule 23, of consumer interests within the state—whether or not the state itself has been injured in its proprietary capacity. Thus, such suits would be subject to the safeguards contained in Federal Rule 23, which benefit both plaintiffs and defendants alike.

As to the computation of damages, we noted that even in horizontal price fixing conspiracies it cannot be assumed that competitors so engaged will sell at uniform prices or will retain identical prices throughout the period of the conspiracy. Such situations will not permit damage computations in gross, but will rather require individual damage computations. We further noted that those few situations which do permit of uniform methods of damage computations, for example, when competitors agree to raise their prices in identical amounts and retain that price increase during the entire period covered by the claim for damages, do not require, to be manageable, the provision for aggregation of damages in gross as proposed in Section 4C(c)(1). Such suits are in fact readily manageable under Rule 23 as it presently stands. Individual damage hearings in such situations can be conducted expeditiously by a master who needs merely to multiply the overcharge by the number of units purchased. Whether Rule 23 procedures are utilized or new procedures are devised under the proposed legislation, there must be some hearing procedure by which individual injured consumers establish their right to participate in the recovery.

Unfortunately, the bill reported to this Committee not only failed to delete the provision for aggregation of damages in gross contained in the original in the draft, but extended this concept in Section 4(C)(c)(1) to all private class actions instituted on behalf of natural persons under Section 4 of the Clayton Act, and thus removed, by one stroke, one of the most basic substantive requirements of private antitrust actions under § 4 of the Act. The Act has always required that the particular private plaintiff demonstrate that he has in fact been "injured in his business or property by reason of anything forbidden in the antitrust laws."

In other words' this addition—which is irrelevant to the subject matter of the bill because it deals with private suits, rather than suits instituted by a state on behalf of its citizens—would radically alter the existing law by eliminating the requirement that a plaintiff prove as an integral part of the antitrust violation that he in fact suffered cognizable injury as a proximate result of that violation.

As this Committee knows, federal court jurisdiction is limited, under Article III of the Constitution, to a "case or controversy" involving parties who must show injury in order to have standing to bring a suit, and is subject to the requirements of procedural due process. Any provision that authorizes a court to calculate damages against a defendant without hearing in regard to proof of any actual injury to identified plaintiffs almost invariably runs afoul of these two principles.

We note, moreover, that although the bill limits state Attorney General suits to violations of the Sherman Act—and an amendment will apparently further limit the violations to Section 1 of the Sherman Act—Section 4(C)(c) will authorize damages in gross in any private class action antitrust suit, including violations of the Robinson-Patman Act and the other provisions of the Clayton Act. This sweeping substantive revision of antitrust damage law has no place in this Title which ostensibly deals only with concept of parens patriae.

As we stated in our earlier testimony, we do recognize the legitimate interests of this Committee in seeing to it that antitrust wrong-doers are deprived of profits obtained as a result of their illegal acts. Nonetheless, extreme care is essential to avoid undue penalty under the antitrust laws that already provide, as a deterrent to violations, for treble damages and for substantial criminal penalties—which have recently been very greatly increased. Accordingly, if this Committee determines to retain a concept of damages in gross, without proof of the fact of injury, we urge the following limitations:

(1) such relief should be carefully limited to class actions instituted by the state Attorney General;

(2) recoveries in gross should be authorized only in Attorney General suits involving "hard core" antitrust violations such as price fixing. Limiting such suits to Section 1 Sherman Act violations does not go far enough.

(3) relief in gross should not be permitted when it will be duplicative of damages recovered by (a) those who have excluded their claims from the suit pursuant to the "opt out" provision, or (b) a business entity which has instituted suit that is intended to cause the defendants to disgorge any retained benefits of such violations. Such limitations would avoid duplicative recoveries, would permit those damaged parties other than consumers represented by the state Attorney General to recover for their damages, and would nevertheless ensure that any improperly obtained gains are in fact disgorged;

(4) it should be provided that damages awarded in gross should not be trebled, for although trebled damages have a legitimate place in individual damage suits, to encourage private plaintiffs to bring suit and to deter those who would violate the antitrust laws, treble damages are not needed to encourage class actions instituted by the state Attorney General; and

(5) notice by publication should not be authorized when the defendant voluntarily offers to provide individual notice to all natural persons on whose behalf the suit is brought who can be identified through reasonable effort. Such a provision would go further toward preserving the rights of those supposed to be represented by the state, but who might not receive notice pursuant to the publication standards presently contained in the bill.

In our previous testimony, we also objected to Section 4(C)(c)(2), which provides for distribution of sums obtained from defendants other than to those demonstrably injured by defendants. No court has ever held on the merits that any such treatment of antitrust recoveries, the so-called "fluid recovery" or "pot of gold," is permissible. Although defendants have agreed to such dispositions in settlement situations, it has been rejected in every instance when opposed by a defendant.

The concept of "fluid recovery" suffers from the same potential constitutional infirmities as found in connection with the concept of aggregation of private damages in gross. I should also note that one commentator has pointed out a serious economic consequence which would be involved when a residual fund is used to lower prices below true costs. This commentator observed that such a result would be court-ordered predatory pricing which could have a significant adverse effect on competition.*

Furthermore, seeking indirect benefit for the citizens of the state by making the defendants use the residual funds to achieve social goals by, for example, making drug companies found to have engaged in price fixing build drug clinics, is no real solution, since the same companies are totally free to retrieve their losses through increased prices that create a direct detriment to those who might or might not be benefited by the indirect social benefit mandated by the court.

Quite simply, if, in fact, private suits now provided for by Section 4 of the Clayton Act and the state attorney general class action suits which we suggest should be legislated, do not sufficiently ensure that a wrong-doer is deprived of his ill-gotten gains, this objective should be accomplished by the direct means of increased corporate and individual fines pursuant to the recently enacted Antitrust and Penalties Act, and maximum jail sentences for violators, as permitted by that Act. If experience shows that these new penalties are insufficient, Congress has the authority to create more severe punitive measures. Title IV of S.1284 cannot be expected to do that job.

Among several other problems of Title IV, we do want to note our concern in connection with the definition of the term "State Attorney General" in Section 4(F)(1). As written, the term would include "any person authorized by State Law to bring action under the bill". This definition would include private attorneys retained by the state to sue on its behalf. The House counterpart legislation has had a provision added to this definition to the effect that this term "does not include any person employed or retained on a contingency fee basis". We would recommend the addition of this language to Section 4(F)(1). Such arrangements would significantly reduce the amount of the dam-

*Note: *Managing the Large Class Action, Eisen* v. *Carlisle & Jacquelin*, 87 Harv. L. Rev. 426, 447 (1973).

age fund available to the injured consumers. We understand that Senators Hart and Scott intend to introduce an amendment which would authorize the court to determine the amount of plantiffs' attorneys' fees, if any, which should be awarded in suits instituted under the new legislation. That is a meritorious provision which we do endorse. However, in order to make it clear that the state may not enter into a separate contingency fee arrangement with outside counsel, we urge the addition of the language contained in the House bill concerning the exclusion of attorneys employed on a contingency fee basis from the definition of "State attorney general".

Finally, we have noted the exchange of correspondence between Senator Hruska and Chief Justice Burger, which indicates that the impact of S. 1284 on the balance between the work load of the courts and their resources to deal adequately with their case loads as well as the bill's impact on practice under Rule 23 of the Federal Rules of Civil Procedure will be presented to the Judicial Conference of the United States at its meeting commencing on April 7 of this year. It appears to us that such consideration by the Judicial Conference is peculiarly appropriate in view of the sweeping expansion of federal jurisdiction proposed by this legislation.

Mr. BURDICK. So Mr. President, the American Bar Association has the identical fears that I have about this matter that, in every case where this was litigated by our courts—and that has been found by four of our circuits—they have come to the identical opinion. There is no contrary opinion, there is no room for argument. The courts have decided this.

We may say we want to use this method as a way to take care of small claims. But we still have to abide by the Constitution.

What have I done in the second part of my amendment? I make a provision in cases where there is a wrongful enrichment, and I agree with the American Bar Association, and I agree with others that one should not be compensated for his wrongful acts. I think the only legal way we can do it—again, the American bar agrees with that—is to permit the trial judge, at the time the matter is being heard on damages, to assess a penalty to compensate for the wrongful enrichment.

On page 29, line 16, my amendment will read as follows:

Provided, That the court may, after determination of the amount of injury to the natural persons of the State, assess a civil penalty to compensate for any wrongful enrichment which may have accrued to the defendant.

Here we are at this point: We are perfectly willing to let the attorneys general bring their suits for known plaintiffs on proof of damages. In those areas where they do not know who the plaintiffs are or what the damages are, the court, from all the facts and circumstances in the case, can compensate for any wrongful gains or wrongful enrichment that the defendant may have accrued, by way of penalty.

I think that stands foursquare with the law. As I said before, it is not a question of what we want to do with this particular thing; it is a question of what we can do under the Constitution.

I urge the adoption of the amendment.

Mr. ALLEN. I call for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

QUORUM CALL

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. I object.

The PRESIDING OFFICER. The objection is heard. The quorum will proceed.

The assistant legislative clerk resumed the call of the roll.

The following Senators answered to their names:

[Quorum No. 11 Leg.]

Allen	Hartke	Pastore
Baker	Helms	Percy
Beall	Hruska	Randolph
Brock	Jackson	Ribicoff
Burdick	Javits	Roth
Byrd, Harry F., Jr.	Leahy	Scott, Hugh
Byrd, Robert C.	Long	Scott, William L.
Case	Magnuson	Sparkman
Cranston	Mansfield	Stafford
Dole	Mathias	Stennis
Ford	McClure	Stone
Griffin	McGee	Talmadge
Hart, Philip A.	Morgan	Young
	Nelson	

The PRESIDING OFFICER (Mr. STONE). A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CLARK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS), are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK), would vote "yea".

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Ohio (Mr. TAFT), and the Senator from South Carolina (Mr. THURMOND), are necessarily absent.

The yeas and nays resulted—yeas 77, nays 1, as follows:

[Rollcall Vote No. 226 Leg.]

YEAS—77

Abourezk	Griffin	Metcalf
Allen	Hansen	Mondale
Baker	Hart, Gary	Morgan
Bartlett	Hart, Philip A.	Nelson
Biden	Hartke	Packwood
Brock	Haskell	Pastore
Brooke	Hatfield	Pearson
Burdick	Hathaway	Percy
Byrd, Harry F., Jr.	Helms	Proxmire
Byrd, Robert C.	Hollings	Randolph
Cannon	Hruska	Ribicoff
Case	Huddleston	Roth
Chiles	Inouye	Schweiker
Cranston	Jackson	Scott, Hugh
Culver	Javits	Scott, William L.
Curtis	Johnston	Sparkman
Dole	Kennedy	Stafford
Domenici	Leahy	Stennis
Durkin	Long	Stevens
Eagleton	Magnuson	Stevenson
Eastland	Mansfield	Stone
Fannin	Mathias	Talmadge
Fong	McClellan	Tower
Ford	McClure	Young
Glenn	McGee	
Gravel	McGovern	
	McIntyre	

NAYS—1

Weicker

NOT VOTING—22

Bayh	Garn	Pell
Beall	Goldwater	Symington
Bellmon	Humphrey	Taft
Bentsen	Laxalt	Thurmond
Buckley	Montoya	Tunney
Bumpers	Moss	Williams
Church	Muskie	
Clark	Nunn	

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present. The question is on agreeing to the amendment of the Senator from North Dakota (Mr. BURDICK). On this question, the yeas and nays have been ordered.

Mr. MORGAN. Mr. President, will the Senator from North Dakota yield for a question or two?

Mr. BURDICK. I yield.

Mr. MORGAN. If the Senator's amendment were to pass, and an action were brought against a corporation for price-fixing or other violations in restraint of trade, they would have to bring in each individual who had been damaged in order to prove the damages, would they not?

Mr. BURDICK. The claimants would have to be identified in some manner, and their damages would have to be identified, yes.

Mr. MORGAN. In other words, for example, in the tetracycline drug cases, they would have to bring in every person who filled a prescription or bought any of those drugs, and have him before the court, or else you could not consider the charges paid by the defendants in order to determine the damages?

Mr. BURDICK. That is precisely what

the Windham case held, too, from the Senators' own area.

Mr. MORGAN. Well, I would differ with the Senator on that, but that is what the amendment provides?

Mr. BURDICK. Yes.

Mr. MORGAN. In other words, you could prove no damages at all unless you could find the man who bought the tube of toothpaste?

Mr. BURDICK. At an excessive price.

Mr. MORGAN. And he would have to come into court?

Mr. BURDICK. That is what the cases hold.

Mr. MORGAN. I thank the Senator.

Mr. BURDICK. I also provide against wrongful enrichment, and provide a penalty against these people to compensate for their wrongful enrichment, so that they do not get by with that.

Mr. MORGAN. But how would a judge determine the amount of penlty, except by the same kind of statistical proof we provide for in the bill?

Mr. BURDICK. It would permit him to use his discretion, from all the facts and circumstances in the case.

Mr. MORGAN. We provide for that in the bill. Under the Bumpers-Chiles amendment, all who cannot substantiate their claims, the remainder of the money is paid in the nature of a penalty.

Mr. BURDICK. But we run up against a constitutional problem. It is not a question of what you want to do, but what you can do.

Mr. MORGAN. Mr. President, I am limited in time, but I think I would like to take a moment to discuss a case my distinguished colleague mentioned. He talked about the Eisen case.

In that case, it is true that Judge Medina, in a three-judge court—that two judges held that it was unconstitutional. One of the judges did not agree. Then there was a petition for a new hearing en banc, that is, before all 10 of the circuit judges. That was denied. There were three judges who specifically disagreed with Judge Medina, and the other four were silent, but they all agreed, in order to expedite it and get it before the Supreme Court, they were not going to hear it. Then when it went to the Supreme Court, the Supreme Court specifically did not rule on that point.

Mr BURDICK. Mr. President, will the Senator yield?

Mr. MORGAN. In just one minute. The Supreme Court specifically stated:

> We therefore have no occasion to consider whether the Court of Appeals correctly resolved the issues of manageability and fluid class recovery, or indeed, whether those issues were properly before the Court of Appeals under the theory of retained jurisdiction.

In other words, the Supreme Court reversed it on another issue, and specifically pointed out that they were not ruling on that issue.

Mr. BURDICK. That is precisely what happened, because there was no appeal taken on the damage question. The appeal was taken on the notice question. The damage question was not disturbed at all.

Mr. MORGAN. Well, the appeal was before the Supreme Court, and the Supreme Court took time to note in its decision that they were not passing on the constitutionality of that point.

Mr. BURDICK. Because the appeal involved nothing but notice. That is why.

Mr. MORGAN. Well, the Supreme Court were not concerned with it, why did they go to the trouble to mention that they were not ruling on the constitutionality?

Mr. BURDICK. Because it was not before them; that is the reason.

Mr. PHILIP A. HART. Mr. President, I think what our colleague from North Dakota is in effect saying is that it would be nice if we could constitutionally provide treble damage recovery for the fluid class action group, but in his judgment this is not permitted under the Eisen case, and several others, in fact.

Let us remember that we are now talking about a bill that is restricted to hard core antitrust violators, per se violators—no obscurity, no uncertainty—cold turkey. They are carving up a market or they are fixing prices.

Can we not reach that? It would be nice to, but it is constitutionally repugnant.

We have been through this. Adoption of the Bumpers amendment moved toward the point the Senator from North Dakota believes that we must move further toward.

I have listened to constitutional arguments over the years. I have never risen to say to my colleagues that I believe a bill for which I have a responsibility is and will be held to be constitutional. In the sixties, the beloved colleague of ours, whose eminance as a constitutional lawyer was acknowledged by one and all, lectured us frequently with respect to the unconstitutionality of the 1964 act, the 1965 act, and its extension in 1970.

The Senator and I do not know with certainty the verdict of that court across the road. But I draw from the same sources from which I drew in the sixties to state my belief that that court will hold this effort to reach hard core violators of the antitrust laws as a constitutional action by Congress.

Mr. BURDICK. Mr. President, will the Senator yield?

Mr. PHILIP A. HART. I yield.

Mr. BURDICK. In 1964 was there a body of law established in four circuits at that time telling us it was unconstitutional?

Mr. PHILIP A. HART. In 1964 we had described to us an arm's length of cases that clearly would destroy the effort of the 1964 act. The Senator remembers that. In 1965 and 1970 there was the same recital of the same cases, not an Eisen case where the law review writers have carved it up, but again maybe the law review writers are wrong and maybe the Senator from North Dakota is right. I say that, if we want to use the constitutional device as a reason to give comfort to hard core antitrust violators, so be it. But let us not tell ourselves, even if we have recently been engaged in the practice of law, which heaven knows I have not, that we know that something is unconstitutional. The majority of the Committee on the Judiciary views it as constitutional.

I hope Senators will sustain that point of view.

Mr. BURDICK. Mr. President, it is one thing to have a law school student tell us what the law should be or we would like to have it be, but I have four circuits tell us what the law is right now, and there is no difference of opinion. It is all one way. There is no dissent facing us. It is just as clear as day.

Mr. HRUSKA. Mr. President, will the Senator yield for a question?

Mr. BURDICK. I yield.

Mr. HRUSKA. Has there ever been a contested case for damages of this kind where there has been allowed the aggregate or statistical method of computation and the distribution pursuant to the part of the bill which the Senator now seeks to delete?

Mr. BURDICK. There has been no case.

Mr. HRUSKA. The only instances where that distribution has been had where the fluid recovery has been allowed have been cases where there are settlements and a consent decree entered, and for the purpose of conveniencing the court this method was agreed upon; is that not correct?

Mr. BURDICK. That is correct.

Mr. HRUSKA. And in each of the instances there was reliance upon the cases to which the Senator refers, beginning with the Eisen case, which is the leading case on the subject.

Mr. BURDICK. The Senator is correct.

Mr. PHILIP A. HART. Mr. President, will the Senator yield for a question?

Mr. BURDICK. I yield.

Mr. PHILIP A. HART. The Senator's amendment strikes the use of statistical data, does it not?

Mr. BURDICK. That is correct.

Mr. PHILIP A. HART. On what basis will the court make its judgment with respect to wrongful enrichment?

Mr. BURDICK. This will give them wide discretion. They may use anything they want to use in the case.

Mr. PHILIP A. HART. Meaning the same kind of statistical data the Senator would deny with respect to the State attorney general?

Mr. BURDICK. Any evidence in the case he can use. It is at his discretion. It is not the jury; it is the court.

Mr. PHILIP A. HART. Does it permit the judge to use data?

Mr. BURDICK. If it is in evidence, yes.

Mr. PHILIP A. HART. And there is no constitutional unease with respect to that?

Mr. BURDICK. Not when the court uses it as a penalty.

Mr. JAVITS. Mr. President, I shall vote for this amendment, but not on constitutional grounds. I was raised and educated in the same school in which Senator HART has been raised and educated and debated in the Chamber tens of hours, with our beloved colleague, Sam Ervin, who had a very interesting education in constitutional law as he argued these matters. He had the inestimable privilege of serving in the Senate until he had a different view as to individual liberties and what the courts would do to safeguard and protect them. So I am not prepared to support this

amendment on grounds of constitutionality. But I am going to support this amendment because I believe it is a realistic and practical way to deal with a totally new situation. The way in which it is set up here is simply too scary to the business community and the American people. That is really what it comes down to. It simply instills unnecessary fear. This bill has a hard enough time as it is. While this is a season when the fortunes of American business are in fairly low esteem because of bribery charges and other charges of unconscionable earning of profits, we should not allow the season to misguide us. The fact is that 85 percent of the American people do extremely well under this system, and it would be very unwise to turn the pyramid upside down and to throw the baby out with the bath water.

So I do not want to scare the American business system where it is reasonably scared already. If it is unreasonably scared, I will have no fear about it and will vote for it in a minute; but if it is reasonably afraid, I think we ought to err on the side of giving American business a sense of reassurance that we know what we are doing, too. It was my feeling in this whole bill that this was where we slipped over the edge, and that the painstaking efforts of 10 years which have gone into this bill had some attenuated sensibilities insofar as the business system is concerned, that we may have failed to perceive a legitimate, a reasonable reason for fear in this matter. We do not want to paralyze American business by fear of endless liability and enormous costs.

That is why I am against the contingent fee provision. I believe BOB GRIFFIN was absolutely right. I have myself, as a lawyer, for years before I came to the Senate practiced law and gotten fees from courts in exactly such cases as we are talking about, not antitrust particularly, but in the securities frauds of the great era of the boom in the late twenties and the depression of 1932. They called me a strike suitor, too, and it never fazed me a bit; on the contrary, I lived to see the day when they hired me because I was that good.

So I understand what we are doing here, but I also understand enough to know that we should not go this far. It is unwise, and that is the only basis on which I argue for this amendment and the only basis upon which I will vote for it.

Mr. MORGAN. Mr. President, will the Senator yield for a question?

Mr. JAVITS. I yield.

Mr. MORGAN. To make it clear for this body, this amendment has nothing to do with the contingent fee question, does it?

Mr. JAVITS. Of course; I am sorry. I did not mean to confuse it at all. But these are the two things that I feel were essential as far as my views were concerned, and so I coupled them in that same remark.

Mr. MORGAN. I seem to have detected such an aversion toward us lawyers at times; consequently, I did not want anyone to think this had anything to do with contingent fees.

Mr. JAVITS. Absolutely not. This has nothing to do with them. That issue has been decided on a rollcall vote and that is, as far as I know, the end of it.

Mr. DOMENICI. Mr. President, I commend the distinguished Senator from New York for his brief but eloquent position. I tend to agree with the Senator from New York on both scores.

I am going to support the amendment, but I have serious doubts whether the proposition that it is unconstitutional is really the issue here. I tend to agree with the distinguished Senator from Michigan (Mr. PHILIP A. HART) that we really do not know. I think that if this body found a substantial public interest, we would be willing to try it on that score—if that it what we thought was needed in today's marketplace to cure the kind of activities that are now the subject matter of this bill, after it has been amended by Senator MORGAN, to make it per se liability.

It seems to me that we should listen attentively to what the Senator from New York (Mr. JAVITS) has said.

This is the time in America when a strange paradox exists. If you ask most American people, they think the enterprise system is good for them. Polls have been taken, and they think that their material life is very well served by it. Ask people about their future, and they quickly tie it to the fact that this system is working. In fact, in a recent poll of a broad section of Americans, they stated that they think this system has more in store for them in the future than they think our Government has in store for them in the future.

I think the Senator is pointing up that we do not want to be caught up in the emotions on the other side of that paradox, that there is attack on the business community and the enterprise system—some of it for good cause. But, we are going to assume in this bill that that system is making absolutely enormous profits and that it can sustain the kind of contingent thrusts against it that this bill promotes. I think the Senator from New York is saying that that is not true at this point, and I agree.

There may be aberrations in the system, where we should be directing our attention to profiteering. But, I remind my friends that there is not a distinguished economist in America who wil say that for the past 5 years the enterprise system has been profiting too much. In fact, almost all will say, across the board, that there is not enough profit for the free enterprise system to do that which we expect it to do.

On the one hand, we say to the enterprise system, "You must grow. You must be the job provider." On the other hand, in this bill we would be saying, "However, let's put in a wholly new civil remedy against it." I think that is far too risky at this point.

So I commend the Senator from New York for clearly distinguishing between a good cause of action against those who intentionally violate the antitrust laws and saying to the court, "If that does not seem adequate because of the rules, you punish them with some penalty."

However, I do not think the damage provision we are amending is an appropriate penalty. It is too risky a penalty for us to support. It truly is civil damages of an enormous contingent thrust with very much flexibility, and we are saying it is a "sort of" penalty. I would prefer to go short on the individual damages and long on the penalty and take that risk for a while, to look at what it really does to the enterprise system. I think that is what the amendment would do, and I do not think that the constitutionality is the most important thing to consider.

Mr. HRUSKA. Mr. President, will the Senator yield for a comment, on my time, and then such time as he might use on his part?

Mr. DOMENICI. I yield.

Mr. HRUSKA. The gist of the position stated by the Senator from New Mexico is this: Under the proposed bill, the distribution of the moneys which would be determined by the aggregate method of determining damages would be determined by the judge, in accordance with the State law or as the district court, in its discretion, may authorize; and it is that which forms a heavy foundation for impropriety. If the money that is determined as a penalty for violating the antitust law is determined and if a civil penalty is assessed, then that money accrues to the government, does it not?

Mr. DOMENICI. That is correct.

Mr. HRUSKA. For distribution as miscellaneous receipts, or what have you?

Mr. DOMENICI. That is right.

Mr. HRUSKA. Is that not a better place to put the funds that at the disposition of a court which, in its discretion, will say that the money will go to a hospital or a charitable institution, or what have you, thereby giving the court powers of punishment and powers of appropriation of the money?

Mr. DOMENICI. I agree wholeheartedly with the Senator.

Mr. HRUSKA. And that is not on constitutional grounds at all. It is on ground of policy. The Government should determine what should be done with that money, not the district court, which is in the business of determining litigating cases.

Mr. DOMENICI. The Senator from Nebraska is correct. That is simply another consideration for this body, as to what kind of policy there should be, in connection with the damages we want to impose on this system for violations of our antitrust laws. I do not choose to argue that particular issue at this point, because I think that before we get there, we are talking about how to measure it. That is the issue here.

To put it another way, I agree with the distinguished Senator from Michigan that my vote certainly does not mean that the court cannot use statistical information of the type that is here contended to be part of an unconstitutional property taking, if it is being done under the guise of damages to give to people. I do not think I am voting that you cannot use that information under the civil remedy portion to determine the penalty a court would impose if he does not see substantial justice done in the damage part. There may be a difference of opinion here, but I think that when we talk about judicial discretion in arriving at the penalty that is part of Senator

BURDICK's amendment, that is a broad discretion and certainly is not passing on individual ways to exercise that discretion. I do not want any misunderstanding on that score, either.

I am firmly convinced that there is a need for major reform in the remedial aspect of our antitrust law. But, I think that any approach that asserts that the free enterprise system at this point in our history can take any kind of battering we want to impose against it, and still remain viable and active and growing, is inconsistent with the reality of the economics in the private sector equation today. Profitmaking across the board is not generally excessive. We are trying to attack it where it is excessive, when there is specific misconduct.

I think that the measure of damages in the basic bill is a frontal attack, as if there is too much profitmaking in the enterprise part of this equation, and I do not think that is the case. The remedy is far too big for the ailment we are trying to cure.

I think Senator BURDICK offers an excellent compromise for this particular point in time.

Mr. THURMOND. Mr. President, this amendment proposes to strike lines 1 through 8 on page 29. I call the attention of Senators to the wording of that provision on lines 1 through 8:

(c) (1) In any action brought under subsection (a) (1) of this section, and in any class action on behalf of natural persons under section 4 of this Act, damages may be proved and assessed in the aggregate on the basis of statistical or sampling methods, or such other reasonable method of estimation as the court in its discretion may permit, without separately proving the fact or amount of individual injury or damage to such natural persons.

Mr. President, I propound a question to the able Senator from North Dakota.

Is it not true that the theory upon which this provision is based repudiates a legal system that awards damages only upon adequate proof, first, that the defendant committed a legal wrong; second, that the wrong actually injured the plaintiff; and, third, that the plaintiff suffered damages in a reasonably ascertainable manner?

Mr. BURDICK. That is what the cases I have cited hold, yes.

Mr. THURMOND. That is what the decisions have held. Is it not true that in every case where it has been contested by the defendant, fluid recovery has been rejected by the court?

Mr. BURDICK. That is correct.

Mr. THURMOND. Is there any court anywhere in jurisprudence that the Senator knows about that has upheld this provision of the act?

Mr. BURDICK. This is entirely new and novel.

Mr. THURMOND. I thank the Senator.

Mr. President, Mr. Philip A. Lacovara, who is an attorney for Bristol-Myers and, at one time, was the Deputy Solicitor General of the United States under Dean Erwin Griswold, testified before the committee. I want to read a few excerpts from his testimony. I think it is very pertinent here.

The attempt to by-pass these constitutional requirements and settled policies ultimately turns on the "fluid class recovery" device which Title IV would adopt. In essence, the concept disregards the question of actual injury to individual consumers, presumes injury to the class of consumers as a whole, creates liability "in the air," and, in light of the practical disinterest of consumers in tiny *pro rata* shares, provides for the bulk of the "compensation" recovered to be applied to miscellaneous court-approved projects or to escheat to the State.

In the class-action setting this approach has been branded as unconstitutional, and a mere change in labels will not transform it into an acceptable device. The most eloquent statement of this position came in Judge Medina's opinion in "Eisen III", *Eisen* v. *Carlisle & Jacquelin*, 479 F. 2d 1005 (2d Cir. 1973), vacated on other grounds, 417 U.S. (1974).[2] Judge Medina firmly rejected the attempt to have the "class as a whole" treated as the real party in interest, with the "claims of the individual members of the class becom[ing] of little consequence" (479 F. 2d at 1017–18):

"Even if amended Rule 23 could be read so as to permit any such fantastic procedure, *the courts would have to reject it as an unconstitutional violation of the requirement of due process of law*. . . . We hold the "fluid recovery" concept and practice to be illegal, inadmissible as a solution of the manageability problems of class actions and wholly improper." (Emphasis added.)

Efforts to present this theory elsewhere have met with similar rebuffs on the firmest grounds. For example, Circuit Judge Ely, another judge considered to be in the vanguard of protecting individual rights, nevertheless rejected the plaintiff's arguments in the *Hotel Telephone* case that "the individual questions arising from the damage claims [of an enormous consumer class] can be solved by allowing damages in the form of fluid recovery. . . ." *In re Hotel Telephone Charges*, 500 F. 2d 86, 89 (9th Cir. 1974). Distinguishing those instances where this device had been accepted by defendants as part of a settlement (such as in the *Tetracycline Antibiotic Drug Litigation*), Judge Ely's opinion stated:

"We agree with the decision reached in *Eisen* v. *Carlise & Jacquelin*, 479 F. 2d 1005 (2d Cir. 1973), that allowing gross damages by treating unsubstantiated claims of class members collectively significantly alters substantive rights under the antitrust statutes." 500 F. 2d at 90.

In that opinion, Judge Ely echoed Judge Medina's reasoned observation in *Eisen III* that rhetorical statements "about 'disoring sums of money for which a defendant may be liable', or the 'prophylactic' effect of making the wrong-doer suffer the pains of retribution . . . do little to solve specific legal problems." 479 F. 2d at 1013. After referring to that language, Judge Ely put the issue this way (500 F. 2d at 92):

"The antitrust laws focus on the compensation of parties *actually injured*, presupposing that a *plaintiff can prove that he was in fact injured* as a proximate result of an antitrust violation, *Hawaii* v. *Standard Oil Co.*, 405 U.S. 251 (1972). The fact that the injured plaintiff is allowed treble damages does not change the basic nature of the private antitrust action as an action intended to compensate. When, as here, there is no realistic possibility that the class members will in fact receive compensation, then monolithic class actions raising mind boggling manageability problems should be rejected." (Emphasis added.)

An even more insistent posture was adopted by another panel of the Ninth Circuit in the real estate brokerage commission case, *Kline* v. *Caldwell, Banker & Co.*, 508 F.2d 226 (9th Cir. 1975). In that massive class-action case, the Court noted that "plaintiff must prove both that the defendant's conduct contravened section 1 [of the Sherman Act] *and* that the plaintiffs suffered injury as a direct result of the illegal conduct." 508 F.2d at 230–31 (emphasis in original). The Court held that, because "[p]roof of injury is *an essential substantive element* of the successful treble damage action" (598 F.2d at 233; emphasis added), each class-member would have to prove to a jury that he had sustained actual injury resulting from a particular defendant's violation. Judge Duniway's concurring opinion expressed alarm at the practical consequences of entertaining the "judicial juggernaut" that plaintiffs and their counsel sought to create there. 508 F.2d at 236. He insisted that it would be necessary for "each such 'plaintiff'" in the alleged class of 400,000 to prove actual injury *and* the amount of his damages. He explained (*ibid.*):

"It is inconceivable to me that such a case can ever be tried, unless the court is willing to deprive each defendant *of his undoubted right to have his claimed liability proved, not by presumptions or assumptions, but by facts*, with the burden of proof upon the plaintiff or plaintiffs, and to offer evidence in his defense. The same applies, if he is found liable, *to proof of the damage of each 'plaintiff'*." (Emphasis added.)

These decisions follow the Ninth Circuit's refusal to entertain a *parens patriae* suit by the State attorney general in *California* v. *Frito-Lay, Inc.*, 474 F.2d 774 (9th Cir. 1973), *cert. denied*, 412 U.S. 908 (1973). There the court held the device unauthorized by law, and criticized the *parens patriae* mechanism on grounds equally applicable to the pending legislation: "To a greater or less degree these [*parens patriae*] theories attempt to utilize class action principles *without the class action safeguards* so carefully worked out by the drafters." 474 F.2d at 777 n. 11 (emphasis added). Although the court commended the problem of consumer protection to the attention of Congress, it was careful not to endorse the *parens patriae* in balanced safeguards.[3] Later opinions of the Ninth Circuit, as we have seen, make clear that statutory codification of the *parens patriae*/fluid class recovery concept is not the kind of solution to the problem that the court would or could approve.

And other courts as well have rebuffed the *parens patriae*/fluid recovery concept. In *Pfizer* v. *Lord*, 522 F.2d 612 (8th Cir. 1975),

[2] At the Committee hearing on March 3, 1976, a member of the Committee's staff suggested that the force of *Eisen III* had been undercut by the Supreme Court's later action vacating the judgment of the court of appeals. Significantly, all portions of the Supreme Court's treatment of Judge Medina's opinion reflect explicit approval of his analysis of the questions the Court found it necessary to reach. It was not his opinion that was vacated, merely the formal judgment of the court of appeals. This action was explained (417 U.S. at 179 n. 16) as allowing the plaintiff an opportunity to amend his complaint, without prejudice, to try to allege a smaller class. The Second Circuit had ordered dismissal with prejudice. And as shown below, other courts have continued to treat Judge Medina's opinion as authoritative.

[3] See 474 F.2 at 776 n. 9. saying of the *parens patriae* device indistinguishable from that proposed in Title IV: "No matter how it is labeled, a basic problem still exists. The class action safeguards of Fed. R. Civ. P. 23 are absent."

the Eighth Circuit ordered dismissal of a *parens patriae* case brought under the antitrust laws by foreign governments on behalf of their citizens. It noted that a "strong preference for class actions over *parens patriae* has been expressed" by the courts and that this preference is based on the "safeguards" built into Rule 23 to insure the basic fairness which the *parens patriae* device circumvent. 522 F.2d at 618.

Recently, the District Court for the District of South Carolina, in a lengthy and careful opinion, continued the trend of judicial repudiation of "fluid class recovery" which Title IV would try to overrule. See *Windham* v. *American Brands, Inc.*, ——— F. Supp. ——— (D.S.C. 1975) (CCH Trade Cas. ¶ 60, 530). The court there refused to tolerate the " 'fluid recovery' theory of damages" that had been used in the settlement of the *Tetracycline Antibiotic Drug Litigation*, noting that that approach "has been rejected by subsequent opinions, the reasoning of which this Court adopts" (quoting *Eisen III's* language) (p. 67, 345). The court stated in no uncertain terms that liability and damage must be proved individually, holding: "Aside from proof of liability, determining the amount of damages and a proper distribution thereof would result in *an unfair trial if a fluid recovery approach were utilized. . . .*" (p. 67, 346).

The overwhelming weight of judicial authority, therefore, rejects the *parens patriae*/fluid recovery mechanism embodied in Title IV of S. 1284 as an unfair and unconstitutional expedient whose defects cannot be cured by inclusion in a statute.

Mr. MORGAN. Mr. President, will the Senator yield?

Mr. THURMOND. I would be pleased to yield to the distinguished Senator.

Mr. MORGAN. Was that statement the Senator just read the statement, the testimony, of Mr. Philip Lacovara, who is general counsel for Bristol-Myers?

Mr. THURMOND. Yes, I stated that when I started.

Mr. MORGAN. I believe Bristol-Myers was one of the five drug manufacturers in the tetracycline case that paid a settlement of over $200 million for price-fixing just recently, were they not?

Mr. THURMOND. That has nothing to do with this. Is the Senator trying to prejudice the Senate by saying that Mr. Lacovara has done something wrong? The point I mentioned was this: I told the Senator in the beginning that Mr. Lacovara was counsel for Bristol-Myers. I further said he had been Deputy Solicitor General of the United States, and this was his testimony here before the committee, and we think simply because he is attorney for some concern does not bar him from reciting the law.

He has compiled one of the finest arguments against fluid recovery and in favor of the proposal, the amendment of the Senator from North Dakota, which has come to my attention. That is why I felt the Senate ought to have the benefit of his views.

Mr. MORGAN. Mr. President, will the Senator yield?

Mr. THURMOND. I want to say further, Mr. Lacovara says fluid recovery is unfair and unconstitutional. It is certainly unfair, and I believe the provision is unconstitutional. If it is unfair does this Senate want to pass it? I do not think so. I think this Senate wants to do what is just and what is reasonable.

Mr. MORGAN. Mr. President, will the Senator yield?

Mr. THURMOND. I want to say further that the position taken here is in accord with the legal precedents and, as I stated, there has been no case where the defendant has appealed to a higher court and been sustained that has come to my attention.

Mr. MORGAN. Mr. President, will the Senator yield? The Senator asked me, I believe, if I was trying to prejudice the Senate. But does not the Senate believe that the Senate is entitled to know the background of the man whose testimony the Senator read to us so that we can determine the credibility we want to give to it?

Mr. THURMOND. Well, the man whose testimony I have read has not been charged with anything. The man whose testimony I have read was Deputy Solicitor General of the United States.

Mr. MORGAN. And he was representing the company——

Mr. THURMOND. He held the highest adjacent position next to the Solicitor General of the United States.

Mr. MORGAN. And he representing the company that paid one of the highest compromise verdicts for price fixing and fraud in the history of the Nation; was he not?

Mr. THURMOND. His company may have paid, they may have paid something for price fixing. I do not know whether they did or not.

Mr. MORGAN. $200 million, did they not?

Mr. THURMOND. I do not know whether they did or not.

What does this have to do with this? I think my time is up, Mr. President, and I yield to the distinguished Senator from North Dakota.

Mr. BURDICK. I would like to ask the manager of the bill, so long as he brought it up, what happened to the tetracycline case when it was tried in court?

Mr. MORGAN. We tried it in North Carolina, and he said it was unmanageable, but it was manageable, and it is now in the court of appeals.

Mr. BURDICK. They knocked out fluid recovery, did they not?

Mr. MORGAN. Oh, I do not believe they did.

While the Senator has asked me the question, let me ask the Senator if he did not cite in his own minority views the Yellow Taxicab cases which allowed aggregate damages, fluid recovery? I will cite it from page 165 of the Senator's own statement. Beginning near the third paragraph from the bottom it says:

> In keeping with this theory and due process considerations, I contended in Committee that Title IV should be amended to allow compensation and treble damages only to those consumers who come forward with proof of loss as a result of the antitrust violation. This is in accordance with the procedure outlined in *Darr* v. *Yellow Cab Co.*, 433 P. 2d. 732 (1967). At page 740 the court states:
>
> "The fact that the class members are unidentifiable at this point will not preclude a complete determination of the issues affecting the class. Presumably an accounting in the suit at bench will determine the total amount of the alleged overcharges; any judgment will be binding on all the users of the taxicabs within the prior 4 years. However, no one may recover his separate damages until he comes forward, identifies himself and proves the amount thereof."

Mr. BURDICK. That is correct.

Mr. MORGAN. Would the Senator let me finish, please. The court said:

> Presumably an accounting in the suit at bench will determine the total amount of the alleged overcharges; any judgment will be binding on all the users of the taxicabs within the prior 4 years. However, no one may recover his separate damages until he comes forward, identifies himself and proves the amount thereof.

In a separate part of that case, another part of that case, which is not quoted, the court said:

> No appearance by the individual members of the class was required to recover the full amount of the overcharges.

Now, is that not one of the cases that the Senator quoted, and is that not what the Darr case said that the Senator quoted?

Mr. BURDICK. I will read the Senator what it says on page 740:

> However, no one may recover his separate damages until he comes forward, identifies himself and proves the amount thereof.

Mr. MORGAN. I will ask the Senator if it was not after the total damages were assessed, and then those who did not come forward, the judge entered an order reducing taxicab fares in the past?

Mr. BURDICK. But that refines the recovery to a known person and known damages.

Mr. MORGAN. Only after the total damages. Read it again. The total damages were awarded. Then everybody was given an opportunity to come in and just prove, as they would under this law, and those who could not prove it then the judge there says:

> It will go to reduce the tax fare damages.

Then the Senator said in his paragraph:

> The amount of the total injury not claimed should be then labeled exactly what it is intended to be, a penalty to prevent unjust enrichment of the wrongdoer.

That is exactly what we have done in this bill. We accepted the Bumpers-Chiles amendment which says after the damages have been awarded, those who did not come in and prove their claims, the judge could then order the remainder paid into the State in the nature of a penalty; exactly what I thought the Senator was asking for.

Mr. BURDICK. Mr. President, will the Senator yield?

Mr. MORGAN. I believe I completed my statement.

Mr. BURDICK. Is the Senator telling me that only those people who can come in and identify themselves and prove their damages are going to recover under title IV? Is the Senator telling me that?

Mr. MORGAN. That is right. That is absolutely right.

Mr. BURDICK. The Senator means that everybody under title IV must identify himself and his damages?

Mr. MORGAN. Before he can recover any damages, that is exactly what it says. Then if there is any money left after all those who come in and proved them, those who cannot prove them, then under the Bumpers-Chiles amendment the court can order the money paid into the State in the nature of a penalty.

Mr. BURDICK. We take care of it by way of penalty, and that is the legal way to do it.

Mr. MORGAN. Mr. President, I have high regard for the distinguished Senator from North Dakota. I serve with him and, like all lawyers, we differ from time to time on interpretation of cases.

I would invite everyone to read the Yellow Taxicab case that the Senator cites himself. But, Mr. President, this is the most crucial part of this bill. I, too, believe in the free-enterprise system, and I want it to survive. But today 200 corporations in America control 67 percent of the manufactured products.

Now, what does this provision we are talking about do, the provision in the bill? It would allow, after once a per se violation has been established, that is, a wanton violation of the antitrust laws, the judge to then decide on the best way to prove the damages. How do you prove them? Let us take the drug case. Your State hospitals, you know how many drugs they bought because you buy them in large quantities; your city hospitals, you buy them in large quantities; your county hospitals. But you do not know what the literally thousands of individuals bought at the local drug stores.

Under Senator BURDICK's amendment, it would eliminate those people unless we could parade them all through the court.

So, what happens, we prove all those we can, subpena the books of the company, saying, "How many drugs did you sell in North Carolina, how many drugs did you sell in North Dakota?"

What better way is there to prove it than by the company's own books? This is a statistical manner or aggregate way once damages have been determined; to give notice that anybody who wants to come in and prove they bought these drugs or they paid overcharges on a rental car, or what have you, to come in and get it, and the amount left over is paid into the State, or to be paid into the State in the nature of a penalty.

Mr. President, I plead as one who has lived with this sort of thing for years, that to require that any plaintiff in an antitrust action parades before the court every single person who has been damaged is, in effect, to render the whole act almost worthless.

Mr. WILLIAM L. SCOTT. Will the Senator yield?

Mr. MORGAN. Only on the Senator's time. I do not have that much time, I believe.

Mr. WILLIAM L. SCOTT. Who controls the time?

Mr. MORGAN. The Senator has an hour.

Mr. WILLIAM L. SCOTT. I see. On the personal time under the cloture motion.

Mr. President, I heard the distinguished Senator from North Carolina comment on the American free enterprise system, and can certainly appreciate his point of view; but I did not follow the logic of a remark that followed.

Did I understand the Senator to say there were 200 companies or corporations that owned 65 percent of the American industry? Am I quoting correctly?

Mr. MORGAN. Sixty-seven percent of the manufactured assets. That shows a concentration of power in this country, economic power.

Mr. WILLIAM L. SCOTT. Let me ask the distinguished Senator, is he trying to say there is something wrong with bigness?

Mr. MORGAN. Not in itself. But when we have three companies in the country who manufacture 97 percent of the light bulbs in this country, we are not likely to have much competition in the market.

Mr. WILLIAM L. SCOTT. Well, now——

Mr. MORGAN. Let me finish.

We are not likely to have much competition and the free enterprise system can only survive if it is regulated or if there is competition.

I would much rather see competition in the marketplace.

Mr. WILLIAM L. SCOTT. How many companies does the Senator feel would be reasonable for the manufacture of automobiles?

The Senator has told us about light bulbs, but what about automobiles?

Mr. MORGAN. I say to the Senator, I have no opinion except to say that had it not been for the foreign manufacturers selling automobiles in this country, offering some competition for the four that we have, I say we would have paid twice as much for the automobiles we now have than we did pay.

Competition is what should regulate the free enterprise system.

Mr. WILLIAM L. SCOTT. Nobody would quarrel with the statement that competition does make for a better product. I have no quarrel with that at all. But I say to the distinguished Senator from North Carolina that there is not a small businessman in this country that would not want to be a big businessman. It is a fact that we do have an opportunity to succeed in this country, whether we are an individual, a company, or a corporation, that results in our high standard of living.

I do not see a thing wrong with bigness in business.

I have never been wealthy or connected with a large company, but I have the opportunity of trying to do these things and so does every other American.

That is something we should not discourage. We should not harass the American businessman. We have too many Government regulations that tend to put the businessman in a straitjacket and stifle economic development of this country.

Industry has to grow and prosper if we are going to have a healthy economy.

In my opinion, this is a bad bill. This is not the time to be harassing the American businessman.

I think the amendment which the distinguished Senator from North Dakota has offered is a very fine amendment. Of course, he is a member, and a very valuable member, of the Judiciary Committee. I know the distinguished Senator from North Carolina is an attorney, and has been attorney general of his State, but he has not had the privilege of serving on the Judiciary Committee and considering this bill as the members of the committee have.

I hope that the Senate does see fit to adopt the amendment of the distinguished Senator.

I think we ought to stop this attack on the American free enterprise system and to stop criticizing business merely because it is big.

Mr. MORGAN. Does the Senator——

Mr. WILLIAM L. SCOTT. We have our antitrust laws, which impose civil and criminal penalties where there are deceptive and unfair acts and practices, or illegal restraint of trade.

The distinguished Senator knows of the antitrust laws, the Clayton Act, the Sherman Act, and all of the other laws we have passed over the years. But the measure that we now have before the Senate is another example of harassment of business. In view of the economic situation today, it is untimely to be attacking American business because of its size, in my opinion.

Mr. MORGAN. Does the Senator understand that this bill applies only to those businesses who have engaged in a per se violation of the antitrust laws?

We are not talking about the bigness alone.

Mr. WILLIAM L. SCOTT. I heard the distinguished Senator talking about the 200 companies and the percentage of business they own. The Senator was talking about light bulbs, but he did not talk about automobiles at all, and we cannot have automobiles manufactured by the small businessman. Even the smallest of the companies that make automobiles in this country, the American——

Mr. MORGAN. Does the Senator not agree——

Mr. WILLIAM L. SCOTT. Mr. President, I still have the floor.

Even the American Motors Co., the smallest of our automobile manufacturers, is big business.

I do not intend to engage in further debate with the Senator, but I just resent the view that bigness is bad. I do not agree with the statement of the Senator. I think that every American businessman who is a small businessman would like to be big, and I do not see anything wrong with it.

Mr. NUNN. Will the Senator from North Carolina yield for a question?

Mr. MORGAN. I believe he had the floor. I would yield on the Senator's time.

Mr. NUNN. I will use my time. I would like to ask a question about the Burdick amendment.

As I understand the amendment, it would say those persons who could not specifically prove their damages would not be awarded fluid damages by the court, could assess against the defendant company, once a per se violation is——

The PRESIDING OFFICER (Mr. CURTIS). The Chair reminds Senators that the Senator may yield for the purpose of

propounding a question, but other than that, it requires unanimous consent.

Mr. NUNN. The Senator from Georgia has the floor; is that correct?

Mr. MORGAN. That was my understanding.

The PRESIDING OFFICER. The Senator making a statement has the floor.

Mr. NUNN. The Senator from Georgia can ask a question, can he not, on the Senator from Georgia's time?

The PRESIDING OFFICER. The Senator can only ask a question of the Senator from North Carolina on the time of the Senator from North Carolina, unless unanimous consent is obtained.

Mr. NUNN. I will not make a statement. The Senator from Georgia has the right to yield to the Senator from North Carolina, does he not?

The PRESIDING OFFICER. Only for a question.

Mr. NUNN. That is the only thing I am trying to do, ask a question.

The PRESIDING OFFICER. The Senator may yield for a question but may not interrogate another Senator on his own time, without unanimous consent.

Mr. NUNN. If I can get back to where I was, once a per se violation is found by the court, there are going to be damages in some amount.

As I understand the Senator from North Dakota's amendment, those people who could establish their damages would be able to collect their damages, but the company itself that had been found guilty of a per se violation would then, instead of paying fluid damages to unidentified persons, have to pay a penalty, as I understand it, in a similar amount to the court.

So the assessment against the defendant would be the same thing. It would be a question of where the money ended up, whether it was to unidentified persons who could not prove their damages or to the court.

That is my interpretation of the Burdick amendment.

Mr. MORGAN. I differ with the Senator's interpretation. He strikes all of section C(1), and then he adds this, that the court may, after determination of the amount of injury to the natural persons of the State, assess a civil penalty to compensate for any wrongful enrichment which may have accrued.

So he has to determine the damages to the natural person of the State first. Under the Burdick amendment he would have to do that by direct proof. Certainly, any amendment of penalty would then have to be dependent upon the amount of damages that had been awarded.

Mr. NUNN. Of course, unjust enrichment would theoretically be the same amount of money as the damages to unidentified persons. It seems to me the defendant would have to pay someone x amount of money and x amount of money would be a constant, but it would be a question of whether it went into the court or whether it went into fluid damages.

Mr. MORGAN. But the amount of damages would have to be proven by individuals. We are dealing with treble damages. It is not like if the judge says, "I find you guilty and I am going to fine you $50,000." Here we take the amount of damages that have been proven and treble it and that would have to be proven first. One would be limited, in my opinion, to those they could actually parade before the court and show actual damages, which would not come anywhere near to representing what the real damages were.

Mr. NUNN. I thank my friend from North Carolina. I yield the floor.

Mr. McGEE. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Regular order, Mr. President.

The PRESIDING OFFICER. Regular order has been called for. Senators will take their seats.

The legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, may we have the well cleared?

The PRESIDING OFFICER. Regular order is called for. Will Senators please clear the well?

The legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. MUSKIE), the Senator from California (Mr. TUNNEY), the Senator from New Jersey, Mr. WILLIAMS), the Senator from Indiana (Mr. HARTKE), and the Senator from Louisiana (Mr. LONG), are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

The result was announced—yeas 39, nays 41, as follows:

[Rollcall Vote No. 227 Leg.]

YEAS—39

Baker	Chiles	Hansen
Bartlett	Curtis	Hatfield
Biden	Dole	Helms
Brock	Domenici	Hollings
Burdick	Eastland	Hruska
Byrd, Harry F., Jr.	Fannin	Huddleston
Cannon	Ford	Javits
	Griffin	Johnston
Magnuson	Pearson	Stone
McClellan	Roth	Talmadge
McClure	Scott, William L.	Thurmond
McGee	Sparkman	Tower
Nunn	Stennis	Young
Packwood		

NAYS—41

Abourezk	Hart, Philip A.	Nelson
Allen	Haskell	Pastore
Brooke	Hathaway	Pell
Byrd, Robert C.	Inouye	Percy
Case	Jackson	Proxmire
Clark	Kennedy	Randolph
Cranston	Leahy	Ribicoff
Culver	Mansfield	Schweiker
Durkin	Mathias	Scott, Hugh
Eagleton	McGovern	Stafford
Fong	McIntyre	Stevens
Glenn	Metcalf	Stevenson
Gravel	Mondale	Weicker
Hart, Gary	Morgan	

NOT VOTING—20

Bayh	Garn	Moss
Beall	Goldwater	Muskie
Bellmon	Hartke	Symington
Bentsen	Humphrey	Taft
Buckley	Laxalt	Tunney
Bumpers	Long	Williams
Church	Montoya	

So Mr. BURDICK's amendment (No. 1761), as modified, was rejected.

Mr. ALLEN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HRUSKA. I move to lay that motion on the table.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The question is on the motion to lay on the table.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, regular order.

The PRESIDING OFFICER. Regular order is called for.

The call of the roll was concluded.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Wyoming (Mr. McGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. MUSKIE), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I further announce that, if present and

voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The yeas and nays resulted—yeas 41, nays 41, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—41

Abourezk	Hart, Philip A.	Morgan
Biden	Haskell	Nelson
Brooke	Hathaway	Pastore
Byrd, Robert C.	Huddleston	Pell
Case	Inouye	Percy
Clark	Jackson	Proxmire
Cranston	Kennedy	Randolph
Culver	Leahy	Ribicoff
Durkin	Mansfield	Schweiker
Eagleton	Mathias	Scott, Hugh
Fong	McGovern	Stafford
Glenn	McIntyre	Stevenson
Gravel	Metcalf	Weicker
Hart, Gary	Mondale	

NAYS—41

Allen	Ford	Packwood
Baker	Griffin	Pearson
Bartlett	Hansen	Roth
Beall	Hatfield	Scott,
Brock	Helms	William L.
Burdick	Hollings	Sparkman
Byrd,	Hruska	Stennis
Harry F., Jr.	Javits	Stevens
Cannon	Johnston	Stone
Chiles	Long	Talmadge
Curtis	Magnuson	Thurmond
Dole	McClellan	Tower
Domenici	McClure	Young
Eastland	McIntyre	
Fannin	Nunn	

NOT VOTING—19

Bayh	Goldwater	Muskie
Belimon	Hartke	Symington
Bentsen	Humphrey	Taft
Buckley	Laxalt	Tunney
Bumpers	McGee	Williams
Church	Montoya	
Garn	Moss	

The PRESIDING OFFICER. On this vote there are 41 yeas and 41 nays. The motion to table is not agreed to.

(Upon recapitulation later in today's proceedings, the foregoing announcement was found to be incorrect, in that Senator MCINTYRE was inadvertently included in the rollcall above as having voted both "yea" and "nay" instead of "yea.")

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The question recurs on the motion to reconsider.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. CHILES. Mr. President, I believe that this is debatable now. We have had two votes on this.

I feel that this is a subject that can be compromised fairly simply. It seems to me, from the arguments I have heard, that both sides are talking about being for a provision whereby the court would not have the wide discretion that started off in the original bill which allowed the court to lower the prices of goods, which allowed the court to make some kind of a fluid recovery, and then put this out in the way of scholarships or other good purposes that the court could see.

The PRESIDING OFFICER. The Senator will suspend, and the Senate will be in order. The Senator will suspend until the Senate is in order.

Mr. CHILES. It seems to me that both sides are sort of against that wide latitude.

On the other hand, it seems to me that both sides are generally not for allowing the companies, once they have been found guilty of perpetrating some kind of fraud or some kind of price-fixing, to escape unpunished. So the question is, how are you going to assess that?

As I understand it, the proposition of the committee now would say that, with the Bumpers-Chiles amendment, which allowed the additional penalty provision, the court could come in and allow those people who could prove their damages to do so. Then the court would be allowed to take the remaining part of the damages, which they could determine by statistical methods, by determining what the company's enrichment was, and then assess those damages through a penalty.

It seems to me that the Burdick amendment says virtually the same thing. The major difference I see is that under the committee proposition, those damages could be treble, while in the Burdick amendment they would be just the amount of the unjust enrichment or the wrongful enrichment.

So it seems that both sides want those people to prove their damages who can do so. Both sides do not want to see the companies escape unpunished. The major concern with the Burdick amendment seems to be that it might not allow the court to come in and statistically consider what the company's unjust enrichment was and that it might allow the court only to be limited—with respect to the unjust enrichment or the unlawful enrichment—to the amount of damages that actually were proved.

If that is a fear, it seems to me that if we were to take the Burdick amendment and add to that part of the language in lines 1 through 8 of the committee bill, "in any wrongful enrichment, the court may assess," and then if we read the rest of that, "may in a statistical manner ascertain what the damages are," and then set those in by way of a penalty, we really have what is in the Burdick amendment and we have what is in the Chiles-Bumpers amendment to the bill.

Other than not assessing the companies triple damages for these unprovable damages to an individual, we really would be taking care of the situation, and we could go about the rest of the business of this bill.

I wonder whether the Senator from North Dakota would see that as being a modification to his amendment that he could accept.

Then if he would, if the Senator from North Dakota would see that as being an acceptable modification, it seems to me that would be a way of getting at what the problem is here and would allow us to go on with the bill without continuing to vote all day.

I wonder if the Senator from North Dakota sees anything wrong with seeking to modify his amendment to add—if I could see that language.

At the bottom of the Burdick amendment, when we look at page 29 of the House bill, if we added a period and said:

Such enrichment may be proved and assessed in the aggregate on the basis of statistical or sampling methods, or such other reasonable method of estimation as the court in its discretion may permit, without separately proving the fact or amount of individual injury.

Or if you just carried it down to, "in its discretion may permit," then I think we would have taken care of the situation.

I say to the distinguished Senator from Nebraska, who was here on this floor a moment ago, if he wants to carry it to a vote right now without accepting this modification, I would be willing to vote on the side of the committee. Then I think the outcome would be certain.

I wonder if the Senator from North Dakota would see that as being acceptable?

Mr. BURDICK. I say to the Senator from Florida that I have opposed this fluid recovery on a legal basis. I became convinced that under the decisions in four circuit courts of appeal in this country, it could not be done. I just wonder how close we are getting to a basis for fluid recovery. I prefer to let the Senate work its will on the amendment and if the Senator wishes to introduce an amendment later on a compromise position, we shall consider it at that time. I do not like to compromise position. I have held here because I firmly believe that, if I have analyzed the law correctly, fluid recovery will not stand up in the courts of this country.

Mr. CHILES. I believe the Senator from North Dakota has taken care of that in his amendment, and I was thinking of his amendment which talks of penalties and wrongful enrichment, not damage, that it could say at the end: "Such enrichment may be proved and assessed in the aggregate on the basis of statistical or sampling methods, or such other reasonable method of estimation as the court in its discretion may permit."

Mr. JAVITS. Mr. President, I think a couple of things need to be made clear before we let this matter sit where it is.

I do not construe my own vote in support of Senator BURDICK's amendment as representing any denial to any group of damaged people of their recovery. In other words, suppose that the amounts involved for individual consumers are very small.

Let us, just for the sake of argument, say it is $10 a radio or television set, or it could even be less. There is not any reason in the world why a court cannot find those damages and make the people write a letter or send in an affidavit and get their $10. But the court would require, before it made a decree assessing damage, some definitive proof of that kind of damage. For example, 500,000 television sets were sold in a given place and so there is $5 million to be assessed. The difficulty with the provision of the bill is that it is left to what is called here "on the basis of statistical or sampling methods." It makes it possible to have huge decrees for damages which will not actually be collected, but at the same time can hang on as a liability for years. That is the only real difference.

I hope, if we cannot do anything about it here, that in conference, the conferees will bear that in mind. There is no use in having—we can take the tetracycline case as an example—an enormous decree, but when we come down to the day of collection, there may not be that many

plaintiffs who can prove they are entitled to any part of it.

I think Senator BURDICK, therefore, has given us a reasonable way out. He says have a decree which has the amount that is actually proven in damages and if you feel the defendant has been unjustly enriched, sock him with a fine. That seems to be the proper and intelligent way. Do not try to break him with huge decrees on which nobody may collect that much. That is what is motivating me. It is a practical thing.

As we are working very hard here to correct conscienceless practices in American businesses, we must, at the same time, be very cautious about sustaining American business in its legitimate claims for solvency. We simply cannot have these absolutely open-ended speculative decrees, even if they will stand up constitutionally. This is the reason that I have supported Senator BURDICK.

I think what Senator CHILES has just said is correct: We are not very far apart at all. The question is, shall the decree be based upon statistical or sampling methods and then let the question of who collects be resolved after the decree is entered, or shall the decree reflect, in the first instance, a realistic situation? I prefer the latter. My colleagues may prefer the former. With my own understanding of the business community and notwithstanding the fact that I have shown on a thousand votes that I am not a bit concerned about hitting them and hitting them hard when we should, the question is, when we do not have to, why do it? That is the way this particular provision appeals to me.

Mr. GRIFFIN. Mr. President, I wonder if I could have the attention of the Senator from Florida. His suggestion, it seems to me, makes a good deal of sense, but I think we are in a parliamentary situation where it would be difficult to implement. As I understand it, such an amendment to the amendment of the Senator from North Dakota would not be in order except by unanimous consent. Is that the situation?

Mr. CHILES. I think the Senator is right.

Mr. GRIFFIN. I wonder if the amendment of the Senator from North Dakota is not already subject to the interpretation that the Senator from Florida seeks to have spelled out? In other words, under the language of the amendment of the Senator from North Dakota, if the court can assess a civil penalty to compensate for any unjust enrichment which may have accrued to the defendant, I wonder if there is anything to keep the court——

The PRESIDING OFFICER. Will the Senator suspend for a moment?

The Chair is advised that the clerk made an error. A Senator changed his vote, which resulted in an error. The vote is 41 yeas, 40 nays. The motion to table carries.

Mr. McCLURE. A parliamentary inquiry, Mr. President.

Mr. GRIFFIN. Mr. President, is a motion to reconsider the vote by which the motion to table was adopted in order?

The PRESIDING OFFICER. It is not.

Mr. McCLURE. A parlimentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Mr. President, did I understand you to say that the Chair had made an error in announcing the vote?

The PRESIDING OFFICER. No, the clerk had made an error in tabulating it, due to the fact that a Senator had changed his vote and was tabulating as voting once each way.

Mr. McCLURE. I thank the Chair.

Mr. GRIFFIN. Mr. President, is it in order to ask that the Senate be polled again on this?

The PRESIDING OFFICER. A motion to reconsider is not in order.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I want to know how do we know what the correct vote of the Senator was? He voted both ways.

The PRESIDING OFFICER. A quorum call is in progress. The Chair will not recognize the Senator.

Mr. ALLEN. I will ask that question as soon as we establish a live quorum.

The second assistant legislative clerk continued the call of the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HANSEN). Is there objection?

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk continued the call of the roll, and the following Senators answered to their names:

[Quorum No. 12 Leg.]

Abourezk	Gravel	Nelson
Allen	Griffin	Nunn
Baker	Hansen	Packwood
Bartlett	Hart, Gary	Pastore
Beall	Hart, Philip A.	Pearson
Bentsen	Haskell	Pell
Biden	Hathaway	Percy
Brock	Helms	Proxmire
Brooke	Hollings	Randolph
Buckley	Hruska	Ribicoff
Burdick	Huddleston	Roth
Byrd, Harry F., Jr.	Inouye	Schweiker
	Jackson	Scott, Hugh
Byrd, Robert C.	Javits	Scott, William L.
Cannon	Johnston	Sparkman
Case	Kennedy	Stafford
Chiles	Leahy	Stennis
Cranston	Long	Stevens
Culver	Magnuson	Stevenson
Curtis	Mansfield	Stone
Dole	Mathias	Talmadge
Domenici	McClellan	Thurmond
Durkin	McClure	Tower
Eagleton	McGovern	Weicker
Eastland	McIntyre	Young
Fannin	Metcalf	
Ford	Mondale	
Glenn	Morgan	

The PRESIDING OFFICER. A quorum is present.

There being some doubt as to the result of the vote to table a motion to reconsider the vote by which the Burdick amendment was rejected, the Chair directs a recapitulation of the vote.

Upon recapitulation, the result was announced—yeas 41, nays 40, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—41

Abourezk	Hart, Philip A.	Morgan
Biden	Haskell	Nelson
Brooke	Hathaway	Pastore
Byrd, Robert C.	Huddleston	Pell
Case	Inouye	Percy
Clark	Jackson	Proxmire
Cranston	Kennedy	Randolph
Culver	Leahy	Ribicoff
Durkin	Mansfield	Schweiker
Eagleton	Mathias	Scott, Hugh
Fong	McGovern	Stafford
Glenn	McIntyre	Stevenson
Gravel	Metcalf	Weicker
Hart, Gary	Mondale	

NAYS—40

Allen	Fannin	Nunn
Baker	Ford	Packwood
Bartlett	Griffin	Pearson
Beall	Hansen	Roth
Brock	Hatfield	Scott, William L.
Burdick	Helms	
Byrd, Harry F., Jr.	Hollings	Sparkman
	Hruska	Stennis
Cannon	Javits	Stevens
Chiles	Johnston	Stone
Curtis	Long	Talmadge
Dole	Magnuson	Thurmond
Domenici	McClellan	Tower
Eastland	McClure	Young

So on recapitulation the motion to lay on the table the motion to reconsider was agreed to.

Mr. McINTYRE. Mr. President, a matter of personal privilege.

The PRESIDING OFFICER. The Senator will state it.

Mr. McINTYRE. In order to clarify the confusion that seems to exist in the vote, let me say that on the last amendment of the distinguished Senator from North Dakota (Mr. BURDICK), I voted "no."

A subsequent rollcall was on a motion to table a motion to reconsider. It was the understanding of the Senator from New Hampshire the motion was to reconsider and I voted "no."

I was later apprised that the vote was a motion to table the motion to reconsider and I came to the floor and changed my vote.

I think an error was made at the desk in failing to expunge my original vote on the motion to table.

I hope that clarifies it. I intended to vote against the amendment of the Senator from North Dakota.

Mr. HRUSKA. Will the Senator yield to clarify the record?

The appearance he just described happened prior to the announcement of the result of the vote?

Mr. McINTYRE. It must have been.

I believe that the correction in my vote, voting "aye" to table, had been made prior to the announcement of the vote.

The PRESIDING OFFICER. The Senator is correct.

Mr. HRUSKA. The question was whether the change was made by the Senator from New Hampshire prior to the time the result of the vote was announced by the Chair.

Mr. McINTYRE. I cannot control what the Chair did. I am saying what I did, what I intended.

The PRESIDING OFFICER. According to the clerk, the change was directed before the vote was announced.

Mr. HRUSKA. That is the inquiry I made and that answer is satisfactory with this Senator.

Mr. ALLEN. Mr. President, I ask unanimous consent that the rollcall be made again in order that the matter can be properly clarified.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The question is on agreeing to the amendment of the Senator from Michigan, as amended.

Senators GRIFFIN and ALLEN addressed the Chair.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. Mr. President, last Friday there was a vote on amendment No. 1718, offered by the Senator from Nebraska (Mr. HRUSKA), and on vote No. 222 a motion to table that amendment was adopted, 39 to 34. That was an amendment, as I understand it, which would have stricken contingent fee arrangements between a State attorney general and private attorneys who might be enlisted to go out and stir up lawsuits.

The question is, with the junior Senator from Michigan having been absent and not voting, would it be in order now for me to move to reconsider that vote?

The PRESIDING OFFICER. The Senator, not having voted and that being within the time frame of the rule, would be in order in asking that that be done.

Mr. GRIFFIN. Mr. President, I move now to reconsider that vote. I would ask the Senate to take another look at that important question. It seems to me that in connection with the concept of parens patriae, it is one thing to empower the highest legal official of a State to bring an action on behalf of some class of consumers; but it is quite another thing, as this legislation would seem to do, to give the State attorney general the authority to delegate State powers to private attorneys, on a contingency fee basis, who are then in a position to engage in what might be described as harassing suits.

If we are going to go to the parens patriae concept, it seems to me that such actions should be brought and prosecuted on the basis of what is in the public interest. And those decisions should be made by the attorney general of a State.

The ambulance-chasing idea of enlisting private attorneys on a contingency fee basis to bring lawsuits, and investing them with the broad powers that this bill contemplates, does not seem to me to be the kind of legislation we ought to be adopting. Now that there are more Senators present than there were last Friday, it would be my hope that the Senate might take another look at that vote and reconsider it.

I ask for the yeas and nays on the motion to reconsider.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, I move to table that motion to reconsider and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to lay on the table the motion to reconsider. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. GRIFFIN. Regular order, Mr. President.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Wyoming (Mr. MCGEE), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), and the Senator from Ohio (Mr. TAFT), are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 39, nays 44, as follows:

[Rollcall Vote No. 229 Leg.]

YEAS—39

Abourezk	Hart, Philip A.	Metcalf
Biden	Haskell	Mondale
Byrd, Robert C.	Hathaway	Montoya
Clark	Huddleston	Morgan
Cranston	Inouye	Nelson
Culver	Jackson	Pastore
Durkin	Kennedy	Pell
Eagleton	Leahy	Proxmire
Fong	Long	Randolph
Ford	Mansfield	Ribicoff
Glenn	Mathias	Scott, Hugh
Gravel	McGovern	Stafford
Hart, Gary	McIntyre	Stevenson

NAYS—44

Allen	Domenici	Percy
Baker	Eastland	Roth
Bartlett	Fannin	Schweiker
Beall	Griffin	Scott, William L.
Bentsen	Hansen	Sparkman
Brock	Hatfield	Stennis
Brooke	Helms	Stevens
Buckley	Hollings	Stone
Burdick	Hruska	Talmadge
Byrd, Harry F., Jr.	Javits	Thurmond
Cannon	Johnston	Tower
Case	McClellan	Weicker
Chiles	McClure	Young
Curtis	Nunn	
Dole	Packwood	
	Pearson	

NOT VOTING—17

Bayh	Hartke	Muskie
Bellmon	Humphrey	Symington
Bumpers	Laxalt	Taft
Church	Magnuson	Tunney
Garn	McGee	Williams
Goldwater	Moss	

So the motion to lay on the table was rejected.

MESSAGE FROM THE HOUSE

A message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed without amendment the following bills and joint resolution:

S. 532. An act to authorize the Secretary of Agriculture to amend retroactively regulations of the Department of Agriculture pertaining to the computation of price support payments under the National Wool Act of 1954 in order to insure the equitable treatment of ranchers and farmers;

S. 2760. An act to amend the Indochina Migration and Refugee Assistance Act of 1975 to provide for the inclusion of refugees from Laos;

S. 3187. An act to extend the authorization of appropriations for the National Commission on New Technological Uses of Copyrighted Works to be coextensive with the life of such Commission; and

S.J. Res. 168. A joint resolution to provide for the reappointment of James E. Webb as a Citizen Regent of the Board of Regents of the Smithsonian Institution.

The message also announced that the House insists upon its amendments to the bill (S. 3295) to extend the authorization for annual contributions under the U.S. Housing Act of 1937, to extend certain housing programs under the National Housing Act, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. REUSS, Mr. ASHLEY, Mrs. SULLIVAN, Mr. MOORHEAD of Pennsylvania, Mr. STEPHENS, Mr. ST GERMAIN, Mr. GONZALEZ, Mr. MITCHELL of Maryland, Mr. PATTERSON of California, Mr. LAFALCE, Mr. AUCOIN, Mr. BROWN of Michigan, Mr. J. WILLIAM STANTON, Mr. ROUSSELOT, Mr. WYLIE, and Mr. MCKINNEY were appointed managers of the conference on the part of the House.

The message further announced that the House agrees to the amendment of the Senate to the amendments of the House to the bill (S. 1466) to amend the Public Health Service Act to extend and revise the program of assistance for the control and prevention of communicable diseases, and to provide for the establishment of the Office of Consumer Health Education and Promotion and the Center for Health Education and Promotion to advance the national health, to reduce preventable illness, disability, and death; to moderate self-imposed risks; to promote progress and scholarship in consumer health education and promotion and school health education; and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the joint resolution (H.J. Res. 92) relating to the publication of economic and social statistics for Americans of Spanish origin or descent.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 11559) to authorize appropriations for the saline water conversion program for fiscal year 1977.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The PRESIDING OFFICER. The question recurs on the motion to reconsider.

The yeas and nays have been ordered. The clerk will call the roll.

Mr. MORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Is the issue not debatable?

The PRESIDING OFFICER. The issue is debatable.

Mr. MORGAN. Mr. President, I say to Senators that last week we debated this issue and this amendment probably longer than any other amendment. This is a very crucial amendment because, if we agree to this amendment, it would prohibit attorneys general from seeking the expert advice of lawyers who are experienced in this area.

I grant Senators that they can pick out isolated cases, as my colleagues did, and show where private attorneys received exorbitant fees. I think those are the exception. But because of those isolated cases, the committee in its wisdom over a long period of time provided in the bill that the court itself should determine the fee not let someone agree to a percentage contract, but determine it, and the language in the committee report, which is legislative history, spells out that the fee shall be on the basis of hours of work done in keeping with the average hourly wage rate in that given area, of course, taking into consideration whether or not they won the case, but not a percentage of the award.

Many of my colleagues have been led to believe that this is a bill to eliminate percentage contracts. There are only 77 attorneys in the Nation in all 50 States assigned to antitrust, and they simply do not have the expertise and the manpower to come up and meet on equal grounds with the giants who engage in these kind of monopolistic practices.

Mr. President, if there is ever a case where an attorney general needs help, this is it. All the safeguards have been written into this legislation that I believe can be written into it. The court determines the fee on the basis that I mentioned to the Senate. The attorney general, if he acts in bad faith, is taxed with the court costs. And in addition to that what could be a better safeguard against stirring up litigation than to make a man's pay contingent upon his being successful? I do not know of any.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. MORGAN. I do not know of any lawyer anywhere who wants to get involved in litigation unless there is a reasonable prospect of winning. And that is why I think it is so important that the attorneys general be allowed to employ attorneys for expert advice.

Mr. President, I would yield, but I prefer that the Senator seek recognition and then allow me to answer his questions because of time limitations.

Mr. CHILES. I will permit the Senator to yield on my time.

Mr. MORGAN. If the Chair will do it, all right.

Mr. CHILES. Listening to the arguments that the Senator makes, I simply cannot understand what is wrong with the language "Except such terms do not include any person employed or retained on a contingency fee basis."

Mr. MORGAN. Because the budgets of most attorneys general are tight as the old saying used to go "as tight as Dick's hatband," and they do not have the money in their budget to go and pay attorneys hourly rates on an hourly basis. It would bar altogether paying them whether or not they are successful. If the court determines the fee, on an hourly base, we have to put some discretion and some trust in the judges of this country, and this is the case where the attorneys general need the expertise. I really think the safeguards are there.

Mr. CHILES. Does this language in any way bar the attorney general from getting outside counsel?

Mr. MORGAN. It does not bar him, if he has money with which to pay it.

But where is he going to get the money to pay it? When I was attorney general I did not have that kind of budget to hire outside attorneys. The legislature simply does not provide that kind of budget.

Mr. KENNEDY. Mr. President, if the Senator will yield on my time, and I direct this to the attention of the Senator from Florida, I think most of the Members of this body associate contingency fees with a certain percentage of fee that would be retained by an attorney if he were successful in a particular case. But from what I understand and the way that this has been drafted, it is that there is no contemplation of that nature, that the contingency fee, as it is used in this legislation, is solely permissible to permit the State attorneys general to be able to contract with those particular services which they feel are essential or necessary to carry forward what they consider to be the public policy served by bringing such action. So it provides flexibility. But in terms of the amounts that are going to be actually retained, those are going to be set by the courts to be reasonable fees that are related to the kinds of customs and usage in that particular jurisdiction.

Am I correct in my understanding of the thrust of this particular amendment? In listening and reviewing the debate and the discussion, it seems that many Members of this body felt that with the ability to assign contingency fees, in effect, an attorney general was able to permit one of his associates or one of his colleagues to go on out and bring a case and then if successful reap extraordinary profits, which obviously there is absolutely no intention of that occurring. But it is very limited, as I understand, by flexibility, for the attorneys general to select those particular attorneys whose backgrounds, experience, and training would be useful in carrying forward a public purpose; second, it is very explicit in setting the limits to be recovered as being established by the courts but being a reasonable recovery based upon the hourly rates of compensation in the jurisdiction.

Mr. MORGAN. The Senator is exactly right, and all of those safegards were taken into consideration and written into the bill to prevent the very kind of abuses as some of my colleagues pointed out last week.

Mr. KENNEDY. If the Senator will yield further. I shall ask another question. I think what he has shown in debating this particular question is based on the fact of having the personal experience he has had as an attorney general. Without this kind of power, would not the opportunity to carry forward the thrust of this legislation be extraordinarily limited or virtually prohibited?

Mr. MORGAN. I would say it would almost be virtually prohibited.

Mr. KENNEDY. I thank the Senator. I think that there was some confusion, at least, in reviewing the record on this issue. Hopefully, the responses the Senator has given will help clarify this matter. I thank the Senator.

Mr. PHILIP A. HART. Mr. President, the point that I think has not been made and that perhaps we did not make in the discussion last week may have some persuasiveness. There are those of us who believe that a contingency fee is actually protective mechanism against a phantom figure that has floated through here periodically—the overly aggressive State attorney general.

No private attorney in his right mind is going to put in hour after hour in a case that is an outright loser. He is not going to get any money for his time. But if, instead of having a contingency arrangement, you pay him on an hourly basis of $100 an hour every 30 days, he is going to plow and plow and plow, whether or not the suit has merit.

So a point that sometimes is overlooked is that there is a safeguard which attaches to a provision such as in the committee bill, which authorizes the engagement of an attorney on an arrangement that is subject to the court's fixing, which is in that sense a contingency fee.

Mr. GRIFFIN. Mr. President, I suggest that for a State attorney general to delegate that authority and that power to a private attorney is subject to question under the best of circumstances; and when that delegation is made on a contingency fee basis, it seems to me that the conflict and the difficulties are magnified manifold.

The interest of a private practicing attorney is not necessarily the same as the public interest or the interest of the State attorney general. It would be very difficult for a State attorney general to maintain any degree of control of the litigation or the investigation after he has delegated by contract the State's responsibility to some private attorney.

For example, it might well be in the selfish interest of the private attorney to settle a case and to get his fee in situations where the public interest would indicate that the case should be prosecuted.

It is a big step to adopt the parens patriae concept at all—in other words, to delegate to the several State attorneys general, the authority that is now vested in the Department of Justice. But if we are going to do that, we should not then allow a further delegation of authority from the State attorney general to various and sundry private attorneys who

may have their own selfish interests to pursue.

I think that the contingency fee arrangement is akin to the ambulance-chasing idea which is not in good repute and that this is the kind of arrangement we should strike down. We should at least have some experience with the use of this authority by the State attorneys general themselves before we take the additional step of allowing them to delegate that authority to private attorneys.

Mr. ABOUREZK. Mr. President, I suppose the specter of an ambulance-chasing attorney has been raised during the debate on this legislation a number of times, more recently just a minute ago by the Senator from Michigan (Mr. GRIFFIN). I think it has been explained adequately that the safeguards in the bill and the legislative history prevent that kind of thing from happening.

I also suggest that no private attorney is going to make the decision as to whether to settle an antitrust case brought by a State attorney general or whether to continue it. That decision must be made by the attorney general, himself, and in no way would be contingent or dependent upon what a private attorney might want to do.

I suppose there is more than one way to gut this legislation or to defeat it. Either you do it on the Senate floor or, failing that, you try to set up a condition whereby perhaps State legislatures might not appropriate funds; and if you prevent the State attorney general from getting help in any other way, then no antitrust cases will be brought, even though the legislation passed by Congress might be in existence.

So I urge that this amendment be defeated, since it seems to me clearly to be a way to deprive State attorneys general from bringing antitrust actions.

Mr. ALLEN. Mr. President, I wonder whether we are not forgetting here the person we are supposed to be to trying to protect, and that is the consumer or or other individual who may have been damaged by antitrust actions by corporations or companies. We seem to be speaking out for large contingency fees for attorneys.

In one case recently, $41 million was allowed as attorneys' fees on a contingency basis. I daresay that the consumer, the person who was injured, may have received a pittance, something in the neighborhood of a few dollars—$10 or less, possibly. Yet, the attorneys received $41 million. So whom are we seeking to take care of—the attorneys handling matters on a contingency basis, the attorneys who are political favorites of the attorney general?

Let us be reasonable about this matter. Where does the money come from for the allowance of these contingency fees? The money comes from those who are damaged by the anti-trust activities. It is not being taken just from the company. The amount of recovery is decided upon and then the contingency fee is allowed. That might be one-third of the recovery. So the more you allow in contingency fees, the less the consumer or other person damaged by the antitrust actions of the defendant will receive.

If we are just working for those who file antitrust suits, those who are favored by the attorney general of a State and are given these cases, that is one thing. If we are going to protect the consumer, that is another. But the more you allow in a contingency fee, the less there is for the person actually damaged.

Mr. President, an indictment was handed down by a Federal grand jury in Baltimore this past weekend which reinforces my strong reservations concerning the dangers contained in the contingency fee provisions of S. 1284.

As has been argued in recent debate on this issue, there is a history of criminal abuse in the Federal antitrust field by public officials who colluded with private entrepreneur bounty hunters of the legal profession in the filing of triple damage lawsuits against business corporations.

Numerous cases of such criminal abuses, involving kickbacks to State attorneys general and prosecutors, have been cited. Now, almost at the very moment the Senate was considering Senator HRUSKA's amendment to eliminate private attorney contingency fee provisions from S. 1284, a Federal grand jury in what, literally, is the national Capital's own backyard, was taking action which serves as yet another dramatic illustration of this danger.

According to the Baltimore Sun of Saturday, June 5, a 13-count indictment was handed down by a Federal grand jury in that city against a former Baltimore county solicitor for—I quote directly from the news report:

> Using his public office to influence the selection of a Chicago law firm to do county business.

The Sun's report of the grand jury action goes on to describe the indictment as involving the solicitor's concealment from the Baltimore County Council of—and here I read from the indictment itself, "the existence of the corrupt relationship" between himself and the Chicago law firm.

The indictment charges the solicitor involved, one R. Bruce Alderman, with getting the council's approval to retain the Chicago law firm to represent Baltimore County "in antitrust suits against a supplier of equipment to the county."

This is the very point that opponents of the private attorney contingency fee provisions of S. 1284 were arguing in support of Senator HRUSKA's amendment. I ask those Members of the Senate who discount the danger of such corrupt arrangements between public officials and antitrust legal entrepreneurs to reconsider their position in light of this latest evidence that such danger is real, not speculative.

Nor, as has been pointed out during this debate, is such abuse of the antitrust process an isolated case. There are scorers of similar cases that have resulted in grand jury indictment and convictions involving collusion between prosecutors and appointed private antitrust counsel on contingency fee antitrust matters.

Further reinforcing the argument made by opponents of the contingency fee provisions of S. 1284 is the fact that in the Baltimore case involving Solicitor Alderman and the Chicago law firm, the engineering company that was the target of triple damage antitrust action chose to settle its case out-of-court rather than bear the burden and incur the risk of contesting the suit.

This, as I have warned on previous occasions, is precisely the kind of abuse to which the Senate will give its official stamp if S. 1284 is passed containing its present triple damage contingency fee provision. We will be encouraging virtual shakedowns of corporations and business firms by bounty-hunting prosecutors and private law firms. Many of these private law firms, in fact, specialize in just such bounty-hunting pursuits. The Chicago firm involved in the Baltimore case is described by news reports as having—I quote—"represented many municipalities in filing antitrust suits."

Under the legal arrangements described by the Baltimore Sun, local Maryland attorneys, working with the county prosecutor, made an agreement with the Chicago law firm to split—again quote—"on a 50–50 basis any legal fees derived from antitrust matters in Baltimore County."

Mr. President, it is no secret that public confidence in all three branches of Government is at low ebb. I submit that it is just such collusive abuse of legal process as are authorized and encouraged by these proposed contingency fee arrangements which contribute to this loss of public faith in our system. I hope that the Senate will not give yet another weapon to those who, by abuse of the process, would add to the damage already done our legal system by entrepreneurial schemes between corrupt public officials and their get-rich-quick friends in the private practice of antitrust law.

Senator HRUSKA's amendment to eliminate this threat from S. 1284 should be reconsidered in that light—or else the Senate itself is in the position of giving aid and sustenance to a form of official corruption the people of the United States will not and cannot tolerate if our legal system is to endure.

Mr. MORGAN. Mr. President, if we are going to defeat this amendment, let us defeat it on the facts. The Senator from Alabama has just read to us, as my colleague from North Carolina did, from a newspaper report of a grand jury indictment on June 5. A man is presumed to be innocent until he is proven guilty. I served as attorney general for 6 years. I have known attorneys general and assistant attorneys general, and they are honorable people. I think I performed my duty with honor. I resent this kind of argument, using the newspaper accounts of an isolated incident of somebody, not even an attorney general, who was indicted a week or two ago. If you take that kind of argument, then you can destroy anything.

Take the $42 million contingency fee. To me, that was a high fee. But it was not awarded to one firm. What happened? The consumers paid $200 million that some of these companies had, I think, marked their prices up 5,000 percent. Much of that recovery would not have been made; over $120 million was actually paid to the consumers.

If Senators are going to cite isolated

cases—if we are going to defeat the provision, let us do it on facts. If Senators are going to cite cases, please cite cases.

The PRESIDING OFFICER Mr. PERCY). The question is on agreeing to the motion to reconsider.

Mr. ALLEN. Mr. President, the Senator mentioned a $41 million attorneys' fee and said that there was more than one attorney involved. Even if there were 41 law firms involved, that would be $1 million per firm. That seems to me to be gouging the consumers. If this fee had been cut down to $10 million, which it seems to me would be quite huge, that would have left an additional $30 million for the consumers.

Mr. MORGAN. Mr. President, I was in that case and I had no private attorneys. It lasted 15 years—15 years—and this was $200 million that some companies wrongfully extracted from the people that they were not allowed to keep. At least what was returned to the consumers was returned to them because of 15 years' work.

Let me tell you who the chief counsel was: a man named Sam Murphy, whose address was One Wall Street, New York. His last 15 years had been spent on nothing but that antitrust suit.

How would anyone expect an attorney general like myself, who usually has to operate with relatively young, inexperienced lawyers, to match wits with that individual? I could not have done it had I not utilized some of the material that had been gathered by these other attorneys.

Mr. President, I hope we will vote no and not reconsider this amendment. We debated it last week.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

Mr. ALLEN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Is the motion a motion to reconsider?

The PRESIDING OFFICER. The question is on a motion to reconsider.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Wyoming (Mr. MCGEE), the Senator from California (Mr. TUNNEY), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Utah (Mr. Moss), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I also announce that the Senator from Illinois (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

The result was announced—yeas 46, nays 38, as follows:

[Rollcall Vote No. 230 Leg.]

YEAS—46

Allen	Domenici	Packwood
Baker	Eastland	Pearson
Bartlett	Fannin	Percy
Beall	Griffin	Roth
Bentsen	Hansen	Schweiker
Brock	Hatfield	Scott,
Brooke	Helms	William L.
Buckley	Hollings	Sparkman
Burdick	Hruska	Stennis
Byrd,	Huddleston	Stevens
Harry F., Jr.	Javits	Stone
Cannon	Johnston	Talmadge
Case	Long	Thurmond
Chiles	McClellan	Tower
Curtis	McClure	Weicker
Dole	Nunn	Young

NAYS—38

Abourezk	Hart, Philip A.	Mondale
Biden	Haskell	Montoya
Byrd, Robert C.	Hathaway	Morgan
Clark	Inouye	Nelson
Cranston	Jackson	Pastore
Culver	Kennedy	Pell
Durkin	Leahy	Proxmire
Eagleton	Magnuson	Randolph
Fong	Mansfield	Ribicoff
Ford	Mathias	Scott, Hugh
Glenn	McGovern	Stafford
Gravel	McIntyre	Stevenson
Hart, Gary	Metcalf	

NOT VOTING—16

Bayh	Hartke	Symington
Bellmon	Humphrey	Taft
Bumpers	Laxalt	Tunney
Church	McGee	Williams
Garn	Moss	
Goldwater	Muskie	

So the motion to reconsider the vote was agreed to.

Mr. HRUSKA. Mr. President, yeas and nays.

The PRESIDING OFFICER. The question now recurs on the vote by which amendment No. 1718 was tabled. The motion was not debatable and since the original vote was by the yeas and nays, they are automatic, and the clerk will call the roll.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. As I understood this question, the vote to reconsider this amendment, would not the question now be——

The PRESIDING OFFICER. The amendment was never voted on. It was tabled. It is not debatable.

Mr. ALLEN. Does not the question recur on the amendment itself?

The PRESIDING OFFICER. No. The motion recurs on the motion to table the amendment and the clerk will call the roll.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. A Senator who is for the amendment would vote against the motion to table that is before the Senate at the present time?

The PRESIDING OFFICER. The Chair will not interpret.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLEN. Regular order, Mr. President.

The PRESIDING OFFICER. On this vote there are 39 yeas, 43 nays——

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, a Senator was seeking recognition.

Mr. MORGAN. I desire to change my vote from "yea" to "nay."

Mr. WEICKER. Point of order, Mr. President.

Mr. HANSEN. A parliamentary inquiry. Was the result not announced?

Mr. WEICKER. The vote was announced.

The PRESIDING OFFICER (Mr. JOHNSTON). The Senator was seeking recognition to change his vote prior to the time the result was announced.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Maine (Mr. HATHAWAY), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Wyoming (Mr. MCGEE), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. MUSKIE), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Indiana (Mr. BAYH) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), and the Senator from Ohio Mr. TAFT) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 38, nays 44, as follows:

[Rollcall Vote No. 231 Leg.]

YEAS—38

Abourezk	Hart, Philip A.	Metcalf
Biden	Haskell	Mondale
Byrd, Robert C.	Huddleston	Montoya
Clark	Inouye	Nelson
Cranston	Jackson	Pastore
Culver	Kennedy	Pell
Durkin	Leahy	Proxmire
Eagleton	Long	Randolph
Fong	Magnuson	Ribicoff
Ford	Mansfield	Scott, Hugh
Glenn	Mathias	Stafford
Gravel	McGovern	Stevenson
Hart, Gary	McIntyre	

NAYS—44

Allen	Eastland	Percy
Baker	Fannin	Roth
Bartlett	Griffin	Schweiker
Beall	Hansen	Scott,
Bentsen	Hatfield	William L.
Brock	Helms	Sparkman
Brooke	Hollings	Stennis
Buckley	Hruska	Stevens
Burdick	Javits	Stone
Byrd,	Johnston	Talmadge
Harry F., Jr.	McClellan	Thurmond
Cannon	McClure	Tower
Case	Morgan	Weicker
Chiles	Nunn	Young
Dole	Packwood	
Domenici	Pearson	

NOT VOTING—18

Bayh	Goldwater	Moss
Bellmon	Hartke	Muskie
Bumpers	Hathaway	Symington
Church	Humphrey	Taft
Curtis	Laxalt	Tunney
Garn	McGee	Williams

So the motion to table was rejected.

The PRESIDING OFFICER. The amendment is now back before the Senate.

Mr. MORGAN. Mr. President, I move to reconsider the vote by which the motion to table was rejected.

Mr. ALLEN. Point of order, Mr. President. That has already been reconsidered.

Mr. ROBERT C. BYRD. Mr. President——

The PRESIDING OFFICER. There will be order in the Senate.

Mr. ALLEN. It has been reconsidered once.

The PRESIDING OFFICER. The Chair will rule that the result on the motion to table has changed so that the motion to reconsider the new result is in order.

Mr. ABOUREZK. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HANSEN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. What was the first announced vote?

The PRESIDING OFFICER. The first announced vote was 43 to 37.

Mr. HANSEN. And the last announced vote was what?

The PRESIDING OFFICER. Last Friday, by a vote of 39 to 34, the amendment was laid on the table.

Mr. ALLEN. Mr. President, a point of order. I would like to raise a point of order.

The PRESIDING OFFICER. The Chair will recognize the Senator for a point of order in one moment, as soon as we finish this.

Just a moment ago, by a vote of 38 to 44, on reconsideration, the motion to lay on the table was not agreed to.

Mr. ALLEN. A point of order.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. ALLEN. Mr. President, there can only be one motion to reconsider a vote, and we had that vote already decided in favor of reconsidering this vote.

Mr. ROBERT C. BYRD. Mr. President, that is true except when the result of the first decision was reversed, as was the case in this instance. Therefore, another motion to reconsider is in order.

The PRESIDING OFFICER. The Chair has recognized the Senator from Alabama.

Mr. ALLEN. I raise the point of order that this is a second motion to reconsider the very same vote. It does not make any difference whether it is 50 to 40, or 60 to 30, or what. Obviously you will have different votes at different times. This is the same motion to reconsider a motion to lay on the table, and it is not in order.

Mr. ROBERT C. BYRD. Mr. President, may I be heard?

The PRESIDING OFFICER. Under the precedents of the Senate, where, upon reconsideration, the result is changed, another motion to reconsider is in order. So the point of order is not well taken.

Does the Senator from West Virginia seek recognition?

Mr. ROBERT C. BYRD. No, I wanted to speak on the point of order. The Chair has ruled as I thought it should rule.

Mr. HRUSKA. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HRUSKA. What is the pending motion?

The PRESIDING OFFICER. A motion to lay on the table the motion to reconsider the vote by which the motion to lay on the table the amendment of the Senator from Nebraska was rejected.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama has the floor.

Mr. ALLEN. I move to lay on the table that motion to reconsider.

Mr. HANSEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which the motion to lay on the table the amendment of the Senator from Nebraska (Mr. HRUSKA) was rejected.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Wyoming (Mr. MCGEE), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

Mr. ALLEN. Regular order, Mr. President.

The result was announced—yeas 43, nays 40, as follows:

[Rollcall Vote No. 232 Leg.]

YEAS—43

Allen	Domenici	Pearson
Baker	Eastland	Percy
Bartlett	Fannin	Roth
Beall	Griffin	Schweiker
Bentsen	Hansen	Scott, William L.
Brock	Hatfield	Sparkman
Brooke	Helms	Stennis
Buckley	Hollings	Stevens
Burdick	Hruska	Stone
Byrd, Harry F., Jr.	Javits	Talmadge
Cannon	Johnston	Thurmond
Case	McClellan	Tower
Chiles	McClure	Weicker
Dole	Nunn	Young
	Packwood	

NAYS—40

Abourezk	Haskell	Mondale
Biden	Hathaway	Montoya
Byrd, Robert C.	Huddleston	Morgan
Clark	Inouye	Nelson
Cranston	Jackson	Pastore
Culver	Kennedy	Pell
Durkin	Leahy	Proxmire
Eagleton	Long	Randolph
Fong	Magnuson	Ribicoff
Ford	Mansfield	Scott, Hugh
Glenn	Mathias	Stafford
Gravel	McGovern	Stevenson
Hart, Gary	McIntyre	
Hart, Philip A.	Metcalf	

NOT VOTING—17

Bayh	Goldwater	Muskie
Bellmon	Hartke	Symington
Bumpers	Humphrey	Taft
Church	Laxalt	Tunney
Curtis	McGee	Williams
Garn	Moss	

So the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1718. The yeas and nays have been ordered.

The question is debatable.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate now stand in recess, under the order, until 10 o'clock tomorrow morning.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

It is an obvious effort to keep from voting on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is not debatable.

The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Wyoming (Mr. MCGEE), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS),

the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 54, nays 29, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—54

Abourezk	Hart, Gary	Mondale
Bentsen	Hart, Philip A.	Montoya
Biden	Haskell	Morgan
Burdick	Hatfield	Nelson
Byrd, Harry F., Jr.	Hathaway	Nunn
Byrd, Robert C.	Hollings	Pastore
Cannon	Huddleston	Pell
Chiles	Inouye	Proxmire
Clark	Jackson	Randolph
Cranston	Kennedy	Ribicoff
Culver	Leahy	Scott, Hugh
Durkin	Long	Sparkman
Eagleton	Magnuson	Stennis
Eastland	Mansfield	Stevenson
Fong	Mathias	Stone
Ford	McClellan	Talmadge
Glenn	McGovern	Weicker
Gravel	McIntyre	
	Metcalf	

NAYS—29

Allen	Bartlett	Brock
Baker	Beall	Brooke
Buckley	Hruska	Schweiker
Case	Javits	Scott, William L.
Dole	Johnston	Stafford
Domenici	McClure	Stevens
Fannin	Packwood	Thurmond
Griffin	Pearson	Tower
Hansen	Percy	Young
Helms	Roth	

NOT VOTING—17

Bayh	Goldwater	Muskie
Bellmon	Hartke	Symington
Bumpers	Humphrey	Taft
Church	Laxalt	Tunney
Curtis	McGee	Williams
Garn	Moss	

RECESS

The motion was agreed to; and at 5:45 p.m. the Senate recessed until tomorrow, Tuesday, June 8, 1976, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate June 7, 1976:

DEPARTMENT OF THE INTERIOR

Albert C. Zapanta, of California, to be an Assistant Secretary of the Interior, vice James T. Clarke, resigned.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

James F. Chambers, Jr., of Texas, to be a member of the General Advisory Committee of the United States Arms Control and Disarmament Agency, vice Kermit Gordon, resigned.

DEPARTMENT OF JUSTICE

John J. Smith, of Delaware, to be U.S. marshal for the district of Delaware for the term of 4 years, vice Edward J. Michaels, resigned.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. CJ Le Van, [redacted] U.S. Army.

WITHDRAWAL

Executive nomination withdrawn from the Senate June 7, 1976:

DEPARTMENT OF JUSTICE

William B. Poff, of Virginia, to be U.S. district judge for the western district of Virginia, vice Ted Dalton, retiring, which was sent to the Senate on April 1, 1976.

EXTENSIONS OF REMARKS

SPEAKER CARL ALBERT—STAR AMONG STARS OF THE 80TH CONGRESS "CLASS"

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. EVINS of Tennessee. Mr. Speaker, we are all concerned over your announcement over the weekend that you will not seek reelection to the Congress.

Your retirement will be a great loss not only to the House and the Congress—but to Oklahoma and the Nation as well.

You have made your mark on the legislative history of our Nation.

You have served with unswerving dedication and with great ability and distinction for 30 years.

I received the news of your decision with mixed emotions—certainly your loss is the Nation's loss and yet on the other hand I can understand your wanting to return home to be with your family and close friends in Oklahoma and to find relief from the tremendous pressures and burdens of your high office.

I recall with pride that we came to Congress together in the new "class" of 90 Congressmen elected after World War II.

We began our service in 1947 in the 80th Congress—sometimes called the "Do-Nothing Congress."

However, as we know, and as a matter of fact, the 80th Congress produced many great and outstanding men, including John F. Kennedy and Richard M. Nixon, who later became Presidents of the United States.

The "class" also included John Bell Williams, later Governor of Mississippi, Caleb Boggs, later Governor of Delaware, several Senators, distinguished judges, administrators and Ambassadors.

For many, our "class" was a springboard to greatness outside the Congress—and for others—like Speaker ALBERT—it was a springboard to greatness as a leader within the Congress.

The 80th Congress produced many outstanding leaders—and the star among stars is Speaker CARL ALBERT himself.

I can recall the Speaker's rise to the top in the House—Democratic whip in 1955, majority leader in 1962 and Speaker in 1971. I also recall your distinguished service on the Agriculture Committee.

From modest circumstances our Speaker—CARL ALBERT became an outstanding scholar—a Rhodes Scholar—and achieved other high academic honors. CARL ALBERT was first elected to Congress in 1946 and served 15 terms—or 30 years.

Mr. Speaker, you have been a great leader during some of the worst constitutional crises this Nation has faced—including the resignation of both a President and a Vice President.

Twice, as I recall, during these crises you were a heartbeat away from the Presidency—you were next in line to the highest office in the land.

Speaker ALBERT's calm judgment and leadership during those difficult and unprecedented times will stand as a monument to his outstanding and distinguished record of public service.

Certainly I wish for you Mr. Speaker, the very best of good luck and success as you return home to Oklahoma—I wish you and your lovely wife Mary good health and much happiness in the years ahead. My wife, Anne, joins me in these sentiments.

JAMES SCOTT RHODES

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. QUIE. Mr. Speaker, I am very pleased to bring to the attention of my colleagues the fact that our distinguished minority leader's son has received the highest honor Landon School bestows upon a graduating senior.

James Scott Rhodes was given the Upper School Headmaster's Award for "general excellence" in every aspect of school life.

Scott's leadership is exemplified by his being elected class president 5 years. He improved the student government greatly throughout this period.

I submit an article which appeared in the June 4 Landon News and wish to congratulate both Scott and his father for this remarkable achievement.

The article follows:

RHODES HONORED WITH HEADMASTER'S AWARD

The Upper School Headmaster's Award which is presented annually to the student who has best exemplified "general excellence" in every aspect of school life is the highest honor Landon can bestow upon a Sixth Former. James Scott Rhodes has shown the exceptional qualities which merit this award.

Throughout his career at Landon, which began in the third grade, Scott has shown fine academic abilities. Last year, he received the Harvard Club Book Award for high achievement in the Fifth Form. This year, he received a National Merit Letter of Commendation.

However, Scott's most important achievements at Landon have been made in the field of student government. For five years, he was class president, indicating the respect and admiration that his classmates have for him. During this period, he has devoted

much of his time to the improvement of the Student Council, the Honor Code, and the Student Council Constitution. Scott served as the Student Council President this year and demonstrated his tremendous effectiveness and organizational ability as a student leader. Throughout this period, he has shown both a sensitivity to the needs of the students and to the requirements of the administration.

In his term of office, he created mock trials to educate the students in the function of the Honor Code; he clarified the responsibilities of the Student Council; he managed greatly to increase the funds collected in the Charity Drive; and he established a Big-Brother type of program in which Upper School students would be sponsors of Lower School classes.

Scott has shown determination and enthusiasm as manager of the football team and as a member of the track team throughout his athletic career.

Most important in the selection of Scott as recipient of this award are Scott's other characteristics—his honesty, maturity, even temperament, fairness and sensitivity. For these, the *News* proudly congratulates Scott.

DANGERS OF 200-MILE LIMIT DISCUSSED

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. SIMON. Mr. Speaker, I am concerned by the recent action taken by Congress extending the U.S. jurisdiction to 200 miles from our coast. I believe there is a potential for danger to our country in this assertion made unilaterally without consultation with other nations.

Because it could be important in the future, I am inserting into the RECORD my letter to Adm. O. W. Siler, Commandant of the U.S. Coast Guard and his reply to me.

I hope we never have to face the situation which my letter suggests, but we are better off facing it now rather than after the fact.

APRIL 19, 1976.

Admiral OWEN W. SILER,
Commandant, U.S. Coast Guard,
Washington, D.C.

DEAR ADMIRAL SILER: I was one of those who voted against the 200 miles zone and I read the story of the press conference with interest. Here is the question that concerns me, and I regret that I was not present for floor debate on this so that I could have had a chance to pose it: What happens if a Russian fishing vessel accompanied by a Russian gunboat comes 150 miles out from the U.S. border. We have signed an international treaty which gives them rights beyond 12 miles, and is a treaty in which we played an initiating role.

We order the Russian fishing vessel to stop fishing and they continue to fish. What happens then? Would the Coast Guard feel compelled to take some type of aggressive action?

I look forward to hearing from you on this.

Cordially,

PAUL SIMON,
U.S. Congressman.

U.S. COAST GUARD,
Washington, D.C., May 26, 1976.

Hon. PAUL SIMON,
House of Representatives,
Washington, D.C.

DEAR MR. SIMON: This is in response to your letter of 19 April in which you pose the question: How would the Coast Guard respond if a Soviet finishing vessel, accompanied by a Soviet gunboat, refused to comply with fishing regulations promulgated pursuant to Public Law 94–265 which extends the United States' fisheries conservation and management jurisdiction out to 200 miles from our coasts?

The presence of armed escorts in this scenario takes the matter beyond the law enforcement arena. The use of, or threat to use, warships to defy the jurisdictional claim of the United States would constitute a major international incident with serious national security implications. The Coast Guard is aware of and sensitive to the strategic importance of the United States' reaction in such a situation. Any short term policy enforcement objectives must give way to these strategic foreign policy and national security considerations. In view of this, the Coast Guard would call upon the Department of State to take appropriate action in an effort to settle the dispute without a belligerent confrontation at sea. Additionally, we would call on the Department of Defense to ensure that sufficient forces are available to meet any eventuality. This methodology would be used regardless of the flag state involved if military intervention was used as a means to resist or interfere with the fisheries conservation and management jurisdiction of the United States as set forth in Public Law 94–265.

In our view, the unlikely possibility that a foreign country will choose to contest our assertion of jurisdiction will be made even more remote by a series of discussions the State Department is commencing in June with each of the countries which fish off our coasts. These important discussions, in which the Coast Guard will participate, will be designed to forecast potential difficulties and eliminate them in advance to the greatest extent possible.

Please advise if we may be able to provide additional information concerning this matter.

Sincerely,

O. W. SILER,
Admiral, U.S. Coast Guard Commandant.

NARCOTIC TRAFFIC

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. GILMAN. Mr. Speaker, for the benefit of my colleagues, I would like to insert in today's RECORD two recent news reports which indicate the extensiveness of narcotics from Southeast Asia and from Latin America being seized by our drug enforcement agents, underscoring the need for a concerted effort by the Congress to assist our Federal authorities in stemming the flow of illicit narcotic traffic:

NARCOTIC TRAFFIC

RALEIGH, N.C.—A Federal drug case involving ten persons accused of smuggling $300 million worth of heroin into the country from Thailand went to the jury today.

It was charged that the drugs were smuggled into the country aboard military aircraft and sent through the mails.

U.S. Eastern District Court Judge Franklin Dupree took 70 minutes to deliver his charge to the jury of eight women and four men. Both the defense and prosecution ended their final arguments yesterday.

The ten, all former or present members of the military, were named in a March Federal grand jury indictment with bringing 166 kilograms, about 332 pounds, of heroin into the country in the false bottoms of luggage, through the mails and in the false bottoms of furniture during 1974 and 1975.

MIAMI.—The skipper of the Colombian square-rigged sailing ship *Gloria* reported to United States authorities yesterday he had discovered a $3 million cache of cocaine aboard his vessel and had arrested two crew members.

The *Gloria* arrived here on a voyage to help the United States celebrate the Bicentennial. It was scheduled to remain at the port of Miami through the weekend, sail to Bermuda and then to New York.

Negotiations were in progress most of the day yesterday between the vessel's skipper, Capt. Rafael Martinez, Colombian Consul General in Miami, Roberto Garcia and representatives of the U.S. State Department and U.S. Customs. U.S. officials were seeking to have customs inspectors search the vessel for possible other caches of the illegal drug.

BRIG. GEN. JOHN FITZWATER

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. BYRON. Mr. Speaker, I learned with great sorrow recently of the passing of Gen. John T. Fitzwater, U.S. Air Force, retired.

General Fitzwater had a long and distinguished career in the U.S. Air Force. After his retirement in Hagerstown, Md., he became active in civic affairs and continued his lifelong role of leadership and concern.

I want to express my sympathy to General Fitzwater's family. He will be greatly missed by all those who came in contact with him over the years. I would like to share with my colleagues the recent obituary from the Hagerstown Morning Herald:

BRIG. GEN. JOHN FITZWATER

Brig. Gen. John T. Fitzwater, 62, U.S. Air Force Retired, died Friday evening at his home, 406 Meadowbrook Road.

Born in Buckhannon, W. Va., he was a son of Carl and Elva M. Helmick Fitzwater.

He was chairman of the Washington County Chapter of the American Red Cross; a member of John Wesley Methodist Church; Morris Frock Post, No. 42, American Legion; and Ralph S. Tagg Jr. Chapter of Disabled American Veterans.

His military career began in 1938 when he entered Flight Training and was commissioned a second lieutenant in the Army Air Corps. At the time of his death he was a Jet Qualified Command Pilot with more than 4,000 hours flying time.

In 1944, he joined the Seventh Bomb Group in India and China and during this period he received the Air Medal for his airmanship. Upon his return to the U.S., he was assigned as director of flying training of the Air Training Command at Barksdale AFB, La. For this service he received the Legion of Merit Medal.

In 1948, he became director of research and development for the Air Training Command. In 1949, he served as director of Human Resources Research at Barksdale AFB, La.

In the same year he organized and commanded the Human Resources Research Center of the Air Training Command at Lackland AFB, Tex., which later became the Per-

sonnel and Training Research Center of the U.S. Air Force.

In 1950, he became commander of the 37th Basic Military Training Group at Lackland AFB, Tex. In 1952 he was assigned to Headquarters Far East Air Forces as an assistant deputy for personnel and later deputy of personnel. During this period he received his second Legion of Merit Medal.

He next served as director of combat operations at Headquarters Central Air Defense Force, Richard-Gebaur AFB, Mo. In 1957, he was assigned command of the 33rd Air Division, which later became Oklahoma City Air Defense Sector.

In 1960, he assumed the position of vice commander of the 33rd Air Division—SAGE, and in 1961 was promoted to brigadier general, and then assumed command as senior U.S. advisor to the commander of the Turkish Air Force.

Upon his return in 1963, he was assigned to Headquarters Tactical Air Command as assistant deputy for plans and later as deputy Chief of Staff. In 1966, he was assigned as deputy for operations Headquarters Continental Air Command.

Upon retirement in 1968, he assisted in organizing the Spring Valley Civic Assn., and served as its first president. He organized and served as charter president of the Upper Potomac Chapter of Retired Officers Assn.

MORE COMMUNIST MURDERS OF POLICE IN MEXICO

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. McDONALD. Mr. Speaker, the brazenness of the armed Communist gangs currently operating in Mexico is a factor worthy of our attention, just as it is in our own country. The murder of policemen in wholesale lots had tapered off for a while, in Mexico, but these anonymous, civilian-clothed terrorists, provided with submachineguns are once more mowing down the police in Mexico City. Of course, just as in the United States, one can expect any police response, whether undercover activity or action against known terrorists, to be denounced as outrageous repression.

In the end, of course, it is the Communists who show us what "outrageous repression" really is, once they gain power in any country.

The latest incident to be reported in the Washington Star, on June 5, reads as follows:

POLICEMEN MOWED DOWN DURING ROLL CALL IN MEXICO

MEXICO CITY.—Communist terrorists armed with submachine guns cut down a line of policemen standing roll call at a police station here yesterday and then surged into the building. Authorities said six officers were killed and four were wounded in the assault.

The killer band, including several women, launched the raid in four automobiles. The terrorists scattered leaflets identifying themselves as members of the September 23rd Communist League—the same group that kidnaped the 16-year-old daughter of the Belgian ambassador and freed her a week ago for a $408,000 ransom.

District police chief Rafael Xiqui said the terrorist squad opened fire on 10 policemen lined up for a routine morning roll call outside the precinct station in the Mexico City district of Ciudad Azteca.

Three policemen fell dead and two others were fatally wounded, Xiqui reported. The terrorists then invaded the headquarters, killing a noncommissioned officer who had fled into a bathroom and pumping bullets into a tax collection office adjoining the station.

Official sources said the police were taken by surprise and did not shoot back.

Policeman Francisco Ruiz Rojas, one of three officers who suffered only cuts and bruises in the attack, said: "They dropped us like flies as we were lined up for the roll call."

The raiders escaped by driving into the morning rush traffic. There were reports they headed toward the Teotihuaca pyramids, an archeological site north of the capital. Roadblocks were erected on highways leading out of the city and helicopters patrolled possible escape routes. No arrests were reported.

CITIZENS BAND COMMUNICATION

HON. KENNETH L. HOLLAND

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. HOLLAND. Mr. Speaker, Friday I introduced legislation to increase the number of channels available for use in the citizens radio services.

In the past several years the citizens band of CB radio has grown tremendously in popularity. They are used on highways and in homes with such frequency that the airwaves are becoming crowded and are no longer able to meet the demand of all the CBers. It is for this reason that I am introducing legislation to increase the available channels from the present 23 to 46.

Numerous proposals to increase the channels have been advanced by the Federal Communications Commission, Members of Congress, and private CB organizations. Most of these proposals suggest a greater increase in channels, a situation which would cost the individual CB owner considerable money. By doubling the number of present channels as my bill would, a person who now owns a CB could continue to use it by attaching an inexpensive adapter. An increase in channels above 46 may require an entirely new radio, resulting in the needless scrapping of thousands of CB radios.

While the mention of CB radios usually brings to mind their popular use as a means to avoid speeding violations, the CBers' ability to communicate safety information is far more important. As a CBer myself, I have heard many an accident, fire, or road hazard reported on CB channels, and I can attest to its benefit.

An additional benefit of CB communication is the good will which is established between CBers. The unique language used by CBers is based on words of friendship and helpfulness and results in greater cooperation and fewer highway accidents.

The Federal Communications Commission has been considering for some time the possibility of administratively expanding the number of available channels through their Docket No. 20120, but has chosen to take no action on the much-needed expansion pending further administrative proceedings and the receipt of further written comments.

This unfortunate delay will make many CBers unable to communicate effectively because of the growing number of people using the currently available frequencies.

My bill is an effort to alleviate the problems caused by the overcrowding of existing CB channels and by the Federal Communications Commission inaction. In my judgment, the widespread use of the citizens band radio is one of the most promising things happening to this country today and an increase in the number of channels available for it could only increase its benefits. I hope you will join me in cosponsoring this legislation.

OF NASA'S EFFORTS FOR THE ELDERLY

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. TEAGUE. Mr. Speaker, NASA has undertaken in conjunction with HEW a pilot program applying lessons learned in our space program on food and nutrition to a program to better feed the rural elderly. A recent news article criticized this experimental program. Astronaut Joseph P. Kerwin, in a letter to the editor of the New York Times, provided a nontechnical and warmly human support for this modest but significant effort. Because it is another example of the contribution of space program derived technology to our daily lives, I am including Astronaut Kerwin's letter in the RECORD.

[From the New York Times]

OF NASA'S EFFORTS FOR THE ELDERLY

To the Editor:

John Keats wrote recently on your Op-Ed page about a modest NASA effort to provide meals for elderly people. In it, he managed to misunderstand just about every aspect of what we are doing, to put down the elderly and to rouse my ire in the process.

Some old people need help to get adequate food to eat. Congress has recognized this fact and has stimulated the sponsorship of group meals for them in various city centers. For the millions who cannot get to group meals, programs such as "Meals on Wheels" deliver hot food to the homebound. But if you live in a small town, or in the country, or need a hot meal on a weekend, "Meals on Wheels" can't help you. So the Texas Governor's Committee on Aging came to NASA and asked: Could we help develop good-tasting, easy-to-prepare, easy-to-deliver meals for people not reached by current programs?

Despite the fact that the Space Act of 1958 was a little vague on the point of NASA feeding the elderly, we said yes.

We can help because our food engineers know a little about packaging and shelf life, and we are working with agencies which know a lot about the kind of food people like to eat. To correct a few misapprehensions: The food is commercially prepared, not "space food." Some of it is freeze-dried, like campers' food, and some isn't. It's packaged in cans or pouches—nary a squeeze-tube, no problem for "palsied, arthritic fingers." It doesn't "require no preparation." but it's easy to prepare, using the recipient's own dishes and silverware. It will be up to the using agency whether to mail it or not;

if it does (a week's worth at a time), it will arrive in good conditions. That food has a two-year shelf life.

We care because we have relatives who are old, and because we'll be old ourselves soon—if we're lucky. And if packaged meals are the alternative to being put into a nursing home for the convenience of the government or our relatives, we'll make the obvious choice, even if the cuisine isn't up to Mr. Keats's continental standards.

People do need caring. When I flew, the chow was good, but the people who put it together for us were great—they were on our side, and they busted their butts to do the job for us. Now they're trying to use their talents to do the job for old people. The technology is good, but it's the caring of which I am most proud.

JOSEPH P. KERWIN,
NASA Astronaut.

Houston, May 2, 1976.

REACTING TO REACTORS

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. HAGEDORN. Mr. Speaker, tomorrow California residents vote on a controversial referendum that would sharply affect the viability of nuclear power as an energy source by implementing all sorts of stringent regulations for the construction and operation of nuclear powerplants. While it is in the democratic fashion that the question is being decided by popular vote, the issue has been argued in very black and white terms; emotional appeals and scare tactics have played too large of a role. The editors of the Mankato (Minn.) Free Press, an award-winning southern Minnesota daily, have what I believe to be a sensible grasp on the issue, especially in comparison to the way it is being played in California. They argue, as more of us should argue, that balanced, logical presentations by both sides of the issues are necessary before any precedent-setting, long-term nuclear energy decisions are made. Faced with continuing potential energy crisis, the United States must proceed coolly in the study of power alternatives. The June 2 editorial follows:

REACTING TO REACTORS

The complexities and ironies of the nation's growing nuclear power plant-siting controversy are no better illustrated than in a request made by 23 public interest groups recently, groups that have asked that the government ban the construction of new nuclear power plants within 40 miles of any major American city.

The interested parties were primarily Ralph Nader-organized Public Interest Research Groups.

A "major American city" is defined as any urban area with more than 400 or more people per square mile.

Nader's partisans in this affair are concerned about the potential for nuclear catastrophe.

All right. Then the question becomes where exactly to put a nuclear power plant. In the megalopolis of the Eastern seaboard, stretching from Portland, Me., to Norfolk, Va.,—one of the places where new power sources will be most needed—there is hardly an interlude anywhere along U.S. Route 1 from urban congestion.

This means siting power plants in one of two principal areas: distantly removed rural-agricultural (and farmers won't like the prospect of radioactive pollution of their water sources and croplands, let alone of themselves) or true wilderness areas (near game preserves, or state and national parks whose own environmental protectors will doubtless argue that pristine nature should not be adversely affected).

That leaves desert land, not much of which exists outside of the Southwest.

Dwellers beyond the purviews of large metropolitan areas could very well state an ironic observation, namely that since most of the power produced by new nuclear plants is produced for the requirements of big cities, let big-city dwellers who feel they need augmented power sources badly enough live with the risk of nuclear accidents.

To go one step further, one would have to argue, along with physicist, Edward Teller, writing in a recent issue of *Newsweek*, that nuclear power has of late had an awful lot of unwarranted bad press; that we would be less fearful of it had it not been for Hiroshima and Nagasaki, the twin specters of Armageddon of the age; that reactors in current use are estimably safer than the Naders of this nation would have us believe; that nuclear power is still the best answer to protecting civilization's survival vis-a-vis worldwide energy depletions, and that the largest threat to the world is the poverty that could be stemmed by peaceful use of the atom, not peaceful use of the atom itself.

There is something to be said for all viewpoints—but what comes out should be balanced and informed; and more people should join the debate before they find themselves either living in the shadow of a reactor, or trying to cope with no energy source at all.

FOLLOWUP OF OTHER NATIONS REGARDING SWINE FLU INOCULATION PROGRAM.

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. HUNGATE. Mr. Speaker the following excerpt from the Washington Post is a followup of my June 3 insert into the CONGRESSIONAL RECORD regarding the reaction of other nations to the swine flu inoculation program:

West German health officials will not say publicly that they regard the swine flu danger as exaggerated, but they point out that Europeans are more used to scares over epidemics than Americans because they are more exposed to bad health news coming from southern Europe and Africa, Michael Getler reported from Bonn.

As a consequence, the officials told Getler, they are less inclined to stampede into large projects such as the crash production of a swine flu vaccine.

In Japan, health officials told John Saar that they believe that antibiotics would make any swine flu recurrence far less serious than the three waves that killed 368,000 and affected 21 million people there between 1918 and 1920.

Singapore health authorities regard the swine flu issue as "controversial," H. D. S. Greenway reported, and plan to study the efficacy and economics of an inoculation program before making any long-range plans.

And David Ottaway reported from Addis Ababa that Ethiopian health authorities are still trying to wipe out smallpox and other deadly diseases unknown in the rest of the world, and have little time to discuss swine flu.

It seems that enough of a mistake may have been made without mentioning the error made by a drug company in their preparation of the vaccine. A wrong strain of virus was used—a mistake estimated at 2 million doses and a setback in the program's initiation by about 6 weeks.

JOBS AND THE JOBLESS

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. ESCH. Mr. Speaker, the Washington Post has appropriately taken the occasion of a further drop in the unemployment rate to discuss some of the implications of H.R. 50, the Humphrey-Hawkins bill. As this editorial provides a good analysis of some important facets of the bill, I insert it into the RECORD for the consideration of all Members:

JOBS AND THE JOBLESS

The unemployment rate fell a bit last month, another welcome sign that things are moving in the right direction. But they are moving slowly. There are still 6.9 million people out of work. Nothing has happened to change basically the expectation that unemployment will remain over 6 per cent for the next couple of years. Unemployment is bad for people. What's the remedy?

A good many Democrats in Congress argue that the remedy is the Humphrey-Hawkins bill, which is intended to pull the adult rate down to 3 per cent within four years. If "adult" means everybody over 16, as it does in the version reported in the House, that means a lower rate than the country has ever had except in wartime. All of the Democratic presidential candidates have blessed the bill, although with varying degrees of enthusiasm. It is very likely to become a campaign issue. As we have observed before, the bill is a mixture of noble intentions and unworkable means to pursue them. In recent weeks we have published responses from both of the bill's authors, Sen. Hubert H. Humphrey (D-Minn.) and Rep. Augustus F. Hawkins (D-Calif.). Today we print on the opposite page an analysis by Charles L. Schultze, taken from his testimony before a Senate subcommittee. This testimony has had an unusual impact on the debate over the month since it was delivered, and it offers readers an opportunity to see for themselves what is involved here.

Dr. Schultze is altogether persuasive when he argues that this attempt to make the federal government the employer of last resort would prove, in practice, intolerably inflationary. He also warns that the country will not sustain employment policies that push the inflation rate sharply upward. After the past two years' experience, can anyone doubt that he is right? Ask yourself what you would have thought if someone had told you, in 1973, that the unemployment rate was going to rise to 8.9 per cent—and, as a result, the country would turn slightly to the right in its politics. It happened, of course, because of the fierce inflation rate that had preceded the recession and helped to cause it.

The central danger in this bill is that it offers the hope—a false hope, sadly—that one walloping good-hearted bill can eliminate permanently the plague of unemployment from American society. Nothing in this bill is more disquieting that the nature of the de-

fense that the bill's architects offer. What if it turns out to cost a great deal more than they estimate? They reply that Congress could simply refuse to appropriate further funds. That escape does not sit square with the unqualified promise that the bill itself makes. In the House version, it declares the right of all Americans over 16 to opportunities for useful paid employment, and states that the President shall provide those opportunities if the private economy does not.

This country had a good deal of unhappy experience in the 1960s under the Johnson administration with ambitious social legislation that never kept its promises. There was the promise that poverty would be eliminated in 10 years. The 10 years are gone, but poverty is not. The Model Cities program was going to rebuild the American slums, but here in Washington the corridors of riot destruction are now growing their ninth annual crop of weeds. One of the great lessons of the 1960s was that simply legislating a goal does not guarantee success. Another great lesson was that if the country legislates goals and then abandons them, the effect is deeply harmful in the cynicism and distrust that it generates among those people who need help most.

The test of social legislation is not merely whether its intentions are pure and good. The test is also whether it seems likely to work effectively in practice. Dr. Schultze and others have also made a highly interesting proposal for agreements between labor and government to hold down wage increases but hold up workers' purchasing power when labor markets get tight. There are many other kinds of legislation that need to be explored—especially those focused where the unemployment is greatest, among young people and among blacks. Perhaps the time has come to begin experimenting with subsidized wages for inexperienced workers. It is important not to let the unemployment debate become polarized between the people who want an instant solution and the people who are prepared to tolerate a 6 per cent rate indefinitely. Congress cannot abolish unemployment by passing this one bill. But it has many more realistic alternatives to speed up the present painfully slow descent of the unemployment rate.

SURFACE MINING LEGISLATION

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. RUPPE. Mr. Speaker, I join today with my colleague from Montana, JOHN MELCHER, in cosponsoring a new surface coal mining regulation and reclamation bill. This legislation contains several significant amendments to the two surface mining bills, H.R. 25 and H.R. 9725, that already have been reported from the House Interior Committee during the 94th Congress. I am hopeful that this new bill can be quickly brought before the full Interior Committee for expeditious consideration.

I am pleased to note that Secretary of the Interior Kleppe announced the promulgation of surface mining regulations for Federal coal lands on May 11, 1976. I firmly believe, however, that a strong regulatory framework applicable to all lands is needed to allow the orderly development and expansion of our most abundant domestic energy resource while insuring that the abuses of the past do not occur in the future. Only Federal legislation that establishes uniform standards for Federal, State, Indian, and private lands can provide the necessary minimum protection of the land and water in the coal-producing regions of our Nation.

I urge my colleagues to once again direct their attention to this important legislation.

PUBLIC LAND MANAGEMENT ACT NEEDED NOW

HON. JOHN MELCHER

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. MELCHER. Mr. Speaker, for several years the House Interior Committee has been developing a bill to implement the Public Land Law Review Commission's report recommendations plus other needed and vital sections dealing with federally owned land. On May 13 the Interior Committee reported to the House H.R. 13777, a comprehensive reform bill dealing primarily with the public lands in the 11 Western States and Alaska.

It is the kind of bill that affects, directly or indirectly, all of our citizens and a number of industries throughout the country. It is not perfect and in no way does it satisfy completely all of the principal users of our public lands. Yet, all agree that a bill is needed now—including utility companies who must seek rights-of-way across public lands, oil and gas exploration groups who explore on the public lands, livestock producers who graze the public lands, people who find recreation in hunting, fishing, camping or hiking on public lands, the American Mining Congress which represents miners who explore for minerals on public lands, and environmental groups anxious for preservation and protection of public lands as well as being interested in a review of the Bureau of Land Management lands for wilderness potential.

All of these diverse groups agree that we need a bill but many of them will seek one or more amendments when the bill reaches the House. I understand the reasoning of the various groups and in some instances I, too, would like some of the sections in the bill improved.

Unfortunately, the word has gone forth from a few Washington representatives of environmental groups casting grave doubts on some aspects of the bill. For instance, a May 14 Sierra Club bulletin mailed to their members throughout the country is entirely misleading. It calls the bill "disastrous." And why? The reason they cite is that the bill would not preserve the "landmark conservation authority to establish and expand National Wildlife Refuge System units."

That is not true. The bill does not prevent establishing or expanding National Wildlife Refuge System units. These units usually have been created or expanded by executive withdrawals. The bill would not prevent continuation of that process. The bill does require that except in cases of emergency all executive withdrawals of over 5,000 acres become effective unless Congress by a resolution passed by either House objects. That is congressional overight responsibility. There has been an average of five withdrawals per year of that size for various reasons for various Federal agencies during the past several years. Congressional oversight is necessary.

When I asked Mr. Michael McCloskey of San Francisco, who is executive director of the Sierra Club, if he believed such a procedure was an improper exercise of congressional oversight, he responded that perhaps it was not if the procedure called for a joint resolution by both Houses of the Congress. That is a valid point to be determined by the House and Senate themselves. But surely it is not an adequate objection that allows one to come to the conclusion that the whole bill is a "disaster." Other points in the bill, including grazing fees, as the Sierra Club bulletin points out, should clearly be debated by the whole House with a final agreement in conference of the House and Senate conferees.

All in all the bill has many positive points including the following: authorization requiring range improvements for livestock and wildlife habitat on Federal lands, access to public lands for recreation, creation of special care for the California desert conservation area so long fought for by our late colleague Jerry Pettis and whose battle has now been faithfully carried on by SHIRLEY PETTIS, modification of rights-of-way across public lands, law enforcement procedures and wilderness review of Bureau of Land Management lands.

Yes, it is a comprehensive bill and speaking for myself and others who have worked for years on developing the bill, each of us could recommend areas where we would like to see the bill strengthened. That goes for the major users of public lands including people who use the land for various recreational purposes, livestock people, hunters and fishermen, utility companies seeking rights-of-way, oil and gas exploration groups, miners exploring for minerals, and environmental groups seeking to preserve and protect our public lands. But all of these groups agree we need the bill now.

While amendments will be offered, the bill provides a good framework for the House to work its will to develop a modern concept and direction for our Federal agencies in managing our public lands with also a needed modern concept of closer congressional oversight. The Federal lands are held in public trust for the benefit of all the people and that grave responsibility rests with Congress. It is time now for Congress to act on their behalf and closely consider and enact the best features of H.R. 13777.

PERSONAL EXPLANATION

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, because of circumstances beyond my control, I was not present in the Chamber for final passage of H.R.

12169 (Rollcall No. 320) and H.R. 9560 (Rollcall No. 330). Had I been present, I would have voted "ayes" on each occasion.

WILDLIFE IN OUR SOUTHERN PINE FORESTS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. BROWN of California. Mr. Speaker, there are many documents and statements being publicly distributed on the subject of clearcut harvesting and its effects on wildlife in the eastern hardwoods. I have submitted some such articles for the RECORD previously. This emphasis on the eastern hardwood wildlife is understandable because this area contains many varieties of wildlife which are dependent on the complex forest covering for a supportive habitat. But the problems of wildlife due to clearcutting in our southern pine forests must not be overlooked. Many southern biologists and fish and game experts have written to me about their growing concern as they witness squirrel, turkey, and quail losses due to the extremely large clearcuts taking place.

I submit the following statement by Charles D. Kelley, director of Alabama's Department of Conservation and Natural Resources, Division of Game and Fish, for the attention of my colleagues. It is an excellent summary of the southern problems with regard to clearcutting in our national forests.

STATEMENT PRESENTED BY CHARLES D. KELLEY

I appreciate the opportunity of appearing here today and consider it an extreme pleasure to continue the discussion on what appears to be one of the greatest timber-wildlife problems which we have faced in many years. Timber management and its relationship to wildlife has been a topic for many heated discussions and it is time that we think seriously of reaching a common ground whereby all interests can get reasonable consideration.

I am not here to excuse the actions which have been taken, nor am I here to needlessly criticize individuals or companies unless such criticism has a bearing on reaching a common ground.

In preparing information for this presentation, I contacted several of the game biologists serving here in Alabama. I offer excerpts from their reports to give you some idea of the professional game managers' feelings about the clear-cut timber operations and to show that the practice and related problem is rather widespread in Alabama.

A report from southeast Alabama stated: "Timber was cut to the very edge of the stream. Many tops had been deliberately pushed into the water, others piled on the banks. An attempt was made to burn these piles but with little success. Erosion from the cleared areas is evident. Water has been retarded and access to the stream bank and to the stream itself is most difficult. The deeper areas of the creek are fast filling with silt. Flooding has increased due to the retarded runoff."

From southwest Alabama the following was received.

"Immediate damage to all species of wildlife. Squirrel and turkey habitat lost permanently in areas planted to pines.

After one to two years, deer, quail and rabbit habitat returns, then is again lost as pines mature and shade out other species of desirable plants. Long range damage affects all species of wildlife. Loss of mast restricts carrying capacity of most wildlife species. Erosion following clear-cutting is detrimental to streams. Clear-cutting in District VII usually exceeds 400 acres, some up to 3,000 acres. Clear-cutting of large areas is resulting in strained relations between sportsmen, communities and the companies carrying out clear-cutting practices."

From north central Alabama came the following: "Clear definition needed on 'clear-cutting'. Believe the extent of land cleared and the replanting of pines rather than the practice itself is the 'bone of contention'. Clear-cutting and replanting to pine detrimental to most species of game, some immediately, others over a longer period of time. Clear-cutting by different companies varies."

A west Alabama game biologist stated that "large areas in this area clear-cut, followed by spraying to kill hardwood reproduction, then replanted to pines on a thirty-five year rotation. Clear-cut areas range in size from forty to several hundred acres—operations severely affecting small game and turkey."

Comments of another biologist were as follows: "I am convinced that clear-cutting most serious threat to wildlife that we face today. Wildlife losses greater than benefits received. Some clear-cutting in all three state game management areas. On one game management area, over 20,000 acres clear-cut and replanted to pines in last twenty years. Clear-cut area usually a solid block compartment of about 1,000 acres each. Another company has been clear-cutting approximately 20,000 acres scheduled for completion in the next three to four years. On a clear-cut area on the Talladega National Forest (Hollins Management Area) several turkey were found dead following the seeding of the area with pine seed treated with a highly toxic chlorinated hydrocarbon."

From northwest Alabama came the report that "most clear-cutting in this area is confined to large timber companies and the U.S. Forest Service. There have been instances where a refuge manager has been denied the right to clear one acre for wildlife plantings because of the possibility of soil erosion, but just a short distance away the same people who refused to agree to the clearing of a one-acre food patch clear-cut an area of approximately 200 acres."

The above reports are not pleasing but do represent what has happened over large areas of Alabama. As evidenced by the reports, there has been large scale clear-cutting and little real consideration given to wildlife.

An exception to the majority practices is the consideration given by some companies and individuals to much smaller clear cuts and extensive use of controlled burn to benefit both timber production and wildlife. Recognition is also given to the design of cuts and the leaving of hardwoods in key locations. At least one major company has made major changes in recent years to better recognize wildlife needs, and indications are that others are planning to follow suit.

As Director of Alabama's Game and Fish Agency, I am charged by law to protect and enhance the fish and wildlife resources and in doing so, I am attempting to consider all reasonable factors involved with this objective. To arbitrarily state that clear-cutting is all bad or that no cutting is all good would not, in my opinion, be proper. I have lived in Alabama all my life and have witnessed a great deal of real progress and a sizeable portion of false progress, and to the best of my ability, I have attempted to separate the two and prevent objections to realistic long range progress for our state.

Fish and wildlife resources are the products of our waters and our land. How we manage our land and water determines the amount of fish and wildlife that is present in any area.

With the demand for more outdoor recreational opportunities occuring at the same time that large areas of fish and wildlife habitat are being destroyed or degraded as a result of the ever increasing human population, the need for a multiple use concept for land and water is becoming more pressing with each passing year.

We have heard much about a multiple use concept for our forests and streams which includes hunting, fishing and other outdoor recreational activities. Unfortunately, the multiple use concept up until this time appears to have been more for propaganda purposes rather than for action.

An excellent example is the operation carried on by the U.S. Forest Service. This agency adopted a "multiple use concept" on forest lands on June 12, 1960. Multiple use practices on national forest lands as originally conceived included timber, wildlife, water, range and recreation. Today, twelve years after the program was initiated, only one wildlife technician is employed, by the Forest Service in Alabama as compared to thirty graduate foresters. Of the 1972 budget for Alabama of nearly two million dollars, only $18,000.00 is allotted for fish and wildlife purposes. Over four and one-half times as much money will be spent by this federal agency in Alabama for forestry practices than will be spent on all other multiple use practices combined.

Despite the very meager effort by the U.S. Forest Service to develop forest service land on a practical multiple use basis, recreational visits to these lands by the general public have continued to increase each year. This fact alone underscores the urgent need for immediate implementation of the multiple use concept.

Frankly, we now enjoy a very favorable working relationship with the U.S. Forestry personnel in Alabama and feel that they are sincerely concerned about the failure to implement a sound multiple use program. Unfortunately, the policies are established well above the level of the Alabama office and there must be some soul searching throughout the U.S. Forest Service if we are to come to a state of cooperative effort rather than one of continued arguments.

During the past several decades, many forestry practices have been initiated which benefit both our forests and our wildlife. Some of these beneficial practices include selective cutting which results in a forest of both large and small trees that assures continuing income to the landowner and good habitat for wildlife. Control of wildfires and prescribed burning are also beneficial to wildlife and the forest.

Unfortunately, there have been other recent practices that some foresters claim to be exceedingly profitable, but are dertrimental to our fish, our wildlife, our land and our water. These detrimental practices include clearcutting of large blocks of hardwoods or mixed pine-hardwood forests and the replanting of these areas to pure stands of pines. Clear-cutting of large blocks of hardwood, as well as pine-hardwood forests, are being carried out by governmental agencies, large timber companies and in some instances by private individuals.

Much misinformation and distortion have been used in the past to justify clear-cutting. A classic example of false propaganda in this field is a news article that appeared recently in a number of newspapers in Alabama and nearby states. The deadlines read "Wildlife Flying High on Pulp Firm Lands". I quote the news report in part:

"This will make environmentalists and ecologists happy; Alabama's pulp and paper companies, which own thousands of acres of Alabama woodlands, are doing great things for wildlife in those forests. More wild turkey, deer and quail are in these woods today than ever before.

"The fourteen news media people on a Southern Forest Institute tour of Georgia

and Alabama forests this week saw some of the things that big companies are doing to improve the environment for wildlife. At the Pickens County forest holding of. . . . "

I end the quote here as enough has been said.

Now let us examine what really did occur.

The group visited a game preserve in west Alabama that has been developed as a hunting area for company officials, special guests, employees and prospective customers. The company has spent large amounts of money on this preserve to increase deer, turkey, quail, squirrel, dove, waterfowl and other wildlife. The company has constructed a fine hunting lodge and there is no doubt that there is more wildlife on this game preserve than in years past. This explanation was not included in the news release. Neither did the news release reveal the fact that as a result of certain forestry practices by the same company, there is less game on other areas of company-owned lands now than was present a few years ago.

The practice of clear-cutting has had wide publicity during the past several years. Congressional subcommittee hearings have been held on the subject, both in Washington and in other cities throughout the nation. On April 20, 1971, Senator Gale McGee, Democrat from Wyoming, introduced a bill, S. 1592, to ban clear-cutting of timber on federal lands for a period of two years. Few meetings that are attended by concerned conservationists adjourn without the subject of clear-cutting having been discussed.

There does not seem to be a "clear-cut" definition for "clear-cutting". In Alabama some companies cut all brush and trees, burn the debris and thoroughly disc the area. Others cut all brush and trees, pile the debris in piles or push it into the nearby streams, but do not disc, while still others cut all merchantable poles and logs, spray the spray the area with herbicides to kill hardwood, but do not otherwise disturb the soil. All of these operations are classed as clear-cutting by the landowners.

In this state, clear-cutting operations are almost without exception the first step for converting the land into even age pine production. Both clearcutting and pine moniculture go hand in hand, and they will be discussed as far as practical as a single activity.

Forest lands provide the necessities for survival for many species of wildlife and the removal of all trees from large blocks of land deprives wildlife of a suitable environment. Wildlife, in order to survive in clearcut areas, is faced with two alternatives. It must adapt to the quick and drastic change in its environment or move to a suitable environment; otherwise it dies.

Clear-cut areas planted to pines provide habitat for rabbit and quail for a period of two to three years, and deer habitat for a period of up to five years. Although deer habitat may be present in some degree for a period longer than five years without control burning, vegetation usually becomes so dense on the area after this period that deer cannot be successfully harvested by the hunter. For all practical purposes, pure pine plantings in many areas after five to seven years become a relative wildlife desert. If the planting is not too wide, wildlife will sometimes pass through, but without suitable food and cover, it will not tarry. Turkey, squirrel and raccoon habitat is destroyed immediately upon clear-cutting, and if the area is planted to pure pine, it will not be productive for these species. Clear-cut areas planted to pine that are long and narrow do not appear to pose as serious a threat to wildlife as do large, wide, solid compartments, even though the total acreage in the long and narrow strips may be the same size or even greater. The present trend for clear-cutting in many areas of Alabama appears to be in large, solid blocks from several hundred acres to 3,000 acres.

On observing clear-cut areas throughout the state, a number of severe environmental problems have noted in additional to those already mentioned.

A number of clear-cuts have been made on steep slopes which have created a severe erosion problem. On at least some of these steep area, furrows for planting seedlings have been plowed straight up and down the hill and no attempt was made to follow the contour. The results have been the creation of large gullies and a much greater erosion problem than was created by the clear-cutting alone. This eroded soil enters nearby streams and fills the stream channel for many miles downstream. Not only is fish habitat destroyed in the immediate area, but fish habitat is degraded on the entire watershed.

On a large clear-cut area on a stretch of one game management area located on a major timber company's lands, bulldozers were used to push tops, stumps, dirt and other debris into a creek until the creek was filled. That which could not be pushed into the creek was piled on the creek bank. Needless to say, fishing opportunities on this creek have been greatly depreciated for many years in the future.

An area in Wilcox County which contained some of the best turkey hunting in the state was leased to a large company for sixty years. Over half of this 1,500 acres has now been clear-cut and planted to pines. Although an occasional turkey may be found in the area that remained uncut, quality turkey hunting on this land no longer exists.

I have stated the case as we see it in our Game and Fish Agency and have referred to situations which have now made history. During recent months, I have had meetings with representatives of the forest industry and have worked with these people toward formulating guidelines which will not necessarily be pleasing to the wildlife interests, nor will they be pleasing to large numbers of timber producers in Alabama. I have found that, among the timber producers in our state, there are many in high positions who are concerned wildlifers and faced with the dilemma of trying to satisfy timber production demands while maintaining reasonable wildlife populations. Basically, the timber interest is looking for a common meeting ground for two reasons: (1) the desire of many of these people to maintain lands where wildlife can be given reasonable treatment and (2) mounting pressure from an aroused public to ban clear-cutting per se.

As stated earlier, I am not advocating, nor do I intend to advocate, the banning of clear-cutting on private lands in Alabama, but I will continue to devote my efforts and the efforts of my staff to assure that in producing the timber products in Alabama that wildlife is not eliminated or greatly decreased in the process. Frankly, I am convinced that although we have realized tremendous success with the wild turkey in Alabama, a continuation of this success is not expected and in fact, a rapid decrease in population is expected if the program to eliminate large areas of hardwood with a conversion to pine is continued. The same holds true for the fate of the squirrel and other lesser hunted species such as raccoon, oppossum, etc.

The dark side has been stated and now for something more pleasant.

I was extremely pleased to receive a policy statement adopted by the Board of Directors of the Alabama Forest Products Association at a January meeting. The policy is as follows:

A. Areas to be harvested by the clearcutting system should be kept as small and as narrow as practical. Large, wide clearcuts should be avoided.

B. Clearcutting should not be employed on an area adjacent to lands recently harvested by this method. The lapse of time should be sufficient for the newly established forest growth to present a pleasing appearance and afford game cover.

C. Hardwood types should be left along stream beds and drains and managed as hardwoods. Clumps of hardwood trees, including den trees and good food-producing trees, should be left in other areas.

D. The forested area along stream beds should not be clearcut but managed as uneven aged forest.

E. Forested strips should be left along highways for their aesthetic value until such time as harvested areas behind them are tall enough for their removal.

F. Control burning should be considered at periodic intervals for hazard reduction and to encourage the growth of food plants for wildlife.

G. Streams should be kept clear of tops.

Although this is merely a recommendation to Association members and does not go as far as some would expect, I do feel that it is a recognition of many members' desire to retain wildlife and a further recognition of the public pressure which has been brought to bear in recent years. I feel that it is a giant step toward a common meeting ground and it is my desire and intent to continue to meet with the forest products industries and to attempt to gain compliance with the policy and even improve the policy where needed in future years.

In closing, I must state that I feel that we have fussed long enough and the time has now arrived whereby we should get together to see what can be done toward the production of timber and the retention of quality wildlife in Alabama.

TAMING THE BUREAUCRACY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. HAMILTON. Mr. Speaker, if you walk down main street in any community in southern Indiana you will not find many people who will disagree with the view that government—government at all levels—has become inefficient, intrusive, and just too big and too expensive.

Because of its size and complexity the Federal Government is a particular target for such criticism. A few examples illustrate only too well the nature of the problem. For example, last year through 11 Cabinet departments, 44 agencies, and 1,200 advisory groups, a bloated bureaucracy issued 10,245 new regulations, adding considerably to the 60,000 pages of existing regulations. Furthermore, today there are 228 Federal health programs, 156 income security programs, and 83 housing programs, many overlapping one another.

Government did not reach its present level of mediocrity and incompetence in a day, and it will not be undone in a day, but it is clearly time to begin to make government work better. It is no wonder that most people perceive government as too large and unresponsive, and feel that they no longer get good value for their tax dollar.

For some time I have been casting about for the best means to attack the challenge of how to make government work well. It will help, of course, to reduce the size of the bureaucracy, consolidate some programs, and abolish others. Tough congressional oversight over programs once legislated and Fed-

eral agencies once established is essential. But the question remains: How do we achieve oversight and scrutiny of the Federal bureaucracy? How do we look at the problem comprehensively and systematically? How do we cage the elephant?

Mechanisms are needed to force the Congress and the President to review the usefulness of existing programs and agencies, and to reorganize or abolish those that are not working well. The present oversight procedure in the Congress of authorization and appropriations has simply failed to provide periodic and comprehensive scrutiny of existing programs and agencies.

The proposal which I believe best meets the requirement of forced review by the Congress is the "sunset" concept. Under this approach each agency or program would face an automatic termination date—or sunset—according to a fixed schedule, say once every 4 years, unless the Congress specifically approved its continued operation. As the termination date for a particular agency approached, a mandatory congressional review of the agency's performance in light of the purposes for which it was established would be triggered. If Congress did not renew the program, it would go out of existence.

The advantage of the sunset proposal is that it establishes a framework for a systematic, periodic scrutiny of all Federal agencies, and makes the supporters of any particular agency justify continuing public investment in it. Through its use, overlapping programs could be untangled, agencies rejuvenated, and programs and agencies that no longer serve a public purpose could be eliminated. The objective of this proposal is to do away with the natural bureaucratic inertia that permits programs and agencies to continue simply because they are there.

There are other promising proposals directed toward checking the tremendous growth of discretionary power within the Federal bureaucracy. One of these would give Congress the ability to oversee administrative rulemaking by creating procedures for congressional review of regulations issued by Federal departments and agencies. Under this proposal, proposed regulations could be disapproved by concurrent resolution of the Congress, and existing or proposed regulations could be directed for reconsideration by a resolution of either House of Congress. Such review and monitoring by Congress would place limits upon the discretionary authority of agencies, hopefully without involving Congress too deeply in the technicality of rulemaking. The aim of the legislation would be to eliminate excessive discretion which has resulted in unnecessary and burdensome bureaucratic regulation.

Another proposal would impose a rigid timetable on the President and the Congress to consider an act on proposals to reform Federal regulatory activities. Over a 4-year period the President would send each year to the Congress major regulatory reform proposals covering specific sectors of industry—for example, transportation, or finance, or construction. These proposals would be reviewed by the Congress. If the Congress did not act by November of each year the President's proposal would become the pending business in each House of Congress for immediate consideration. A variation of this proposal would require that the plan go into effect the following year unless the Congress disapprove the plan.

The mechanisms that these proposals would create are no panacea to the problems created by Government that has grown too large, too powerful, too costly, too remote, and yet too deeply involved in the daily lives of the American people. Despite the election year rhetoric, no realist expects a wholesale dismantling of the Federal bureaucracy. But if the Congress has the will to conduct meaningful oversight, and there are encouraging indications that it does, then these proposals could result in more justifiable programs and more accountability in Government.

And that, in turn, is the path to a restoration of confidence in Government.

FEWER PUPILS/SURPLUS SCHOOLS

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. HEINZ. Mr. Speaker, on March 18, I introduced the Surplus School Conservation Act of 1976 (H.R. 12627), and the Surplus School Conversion Act of 1976 (H.R. 12628). These bills would provide assistance to communities that are experiencing declining enrollment in elementary and secondary schools, and the attendant problem of surplus buildings which are valuable community resources. Unfortunately, Mr. Speaker, most communities lack the funds to recycle these buildings for alternate, productive purposes. I am pleased to report that these bills have received enthusiastic support from school and municipal officials throughout the country.

Recently, Dr. Cyril G. Sargent, professor emeritus of education, City College, City University of New York, and consultant to Educational Facilities Laboratories, New York, and Dr. Harold B. Gores, president of EFL, discussed declining enrollments at the annual convention of the National Association of Secondary School Principals. These men, and their colleagues at EFL, have studied the problem of "Fewer Pupils/Surplus Schools" in considerable depth, and they provided valuable assistance in developing these bills. I urge all Members of Congress to read both of their addresses, and consider this serious problem which has struck many of our Nation's communities:

DECLINING ENROLLMENTS—THE NUMBERS

(By Dr. Cyril G. Sargent)

I am going to ask you this afternoon to do something that may seem unpleasant, that may make you uncomfortable, that you may wish to block out of your range of concerns. I am going to ask you to think small—to think decline—to think shrinkage.

You have been brought up on growth; growth has permeated the whole scheme of things; and your administrative style has been nurtured under growth conditions. I am suggesting that for many of you, on the contrary, your administrative success and leadership will increasingly be measured by your ability to cope with decline.

Think for a moment of the pervasiveness of the idea of growth in the fifties and sixties: growth in personal income, growth in G.N.P., growth in consumer living standards, growth in the stock market. No longer was the goal two cars in every garage but two cars, one boat, one camper, and/or one snowmobile. We were on our way to the moon and our President could proudly proclaim "We're No. 1"!

To mention the possibility that there might be a turnaround just ahead was about as hazardous an observation as the idea of planning was in the late 1940's. Planning was "creeping socialism"; decline in the euphoria of the 60's was equally subversive.

So who would bother to pay much attention to a drop in the birth-rate in 1957—a mere flurry in the almost uninterrupted increase since 1940. And school people in particular were so fully engaged in finding space for burgeoning enrollments that they had no time to catch the earliest warning signs. But then the authorities in this field of demography did not alert them to the new conditions either. Indeed a small drop in the birthrate would not seem to make much difference because the post-war children would themselves begin to have families soon so that the total number of births would continue to rise anyway.

It was not until George Grier of the Washington Center for Metropolitan Studies analyzed the preliminary runs of the 1970 census and published his monograph *The Baby Bust* in 1971 that demographers began suddenly to realize that a dramatic and indeed unprecedented turn-around was occurring. Suddenly we heard about "Zero Population"—a no-growth economy—and the economic and social consequences of decline. It was with some sense of relief that "The Wall Street Journal" on January 13 of last year could ask, "Is Gerber Products Co., a maker of baby foods, finally crawling out of the doldrums? . . . The key consideration in the baby product industry is the birth rate, which has increased in the past four months from a year earlier. 'Recent Government statistics of birth trends are most encouraging,' says Ronald S. Strauss, analyst at Mesirov & Co. of Chicago."

In contrast, a Trustees' Report on Social Security foresaw a decline in the next few years to an average of 1.7 children for each woman of child-bearing age from the the current level of 1.9, and then a gradual climb to a rate of 2.1 children. "Last year, the assumption was for an increase to 2.1 children without any further decline. The impact of this change is to further increase the ratio of retirees to workers in future years; it will climb from 30 for every 100 workers to about 50 for each 100 workers by the year 2030."

So we are down to the lowest completed family size in our history, with total births hovering around 2,000,000 a year. Will they dip below this figure? Probably not, because the number of women of child-bearing age—the "baby burst" generation—will continue to grow from the present 47.4 million to almost 55 million in 1985. And this would seem reasonably certain to result in a new growth in the total number of births. But while the number of women of child bearing age is certain to increase, their values and attitudes are far from set. However, one recent (1973) survey of the *Birth Expectations of American Wives* by the Bureau of the Census shows that young wives 18–24 anticipate a family size of 2.3, which certainly contrasts markedly with an average anticipation of 2.9 in 1967 and 3.1 in 1965 surveys. (Replacement level of births to wives is 2.2). Of these younger wives, 70% expect no more than two children, and the report concludes that "the low levels of expected

future fertility among America's young wives suggests that the current low birth rates will remain low for the immediate future at least."

Acting on these and other assumptions, the Census Bureau about a year ago introduced three new population projections (known as Series I, II, and III). Series I assumes a completed family size of 2.7; Series II of 2.1; and Series III, of 1.7. Using these three Series, the Bureau arrives at a population total for the United States in the year 2,025 of either 382.0 or 299.7 or 250.4 million people.

For school age children these three series of course project different population futures. All three remain the same through 1986 (for these children are already born) and for the age group 12–17, they show a decrease in total size from 25,231,000 to 20,582,000, a drop of more than 4½ million, slightly more than 18%. And if today's birth rate and completed family size holds up (or rather down) by the year 2,000, there would still be only about 100,000 more than this 1986 figure.

On the other hand, should the current birth rate turn around abruptly—and return to the 2.7 figure of 1966—a highly unlikely prospect—this number could become 31,016,000. But even if we climbed back to the zero growth of 2.1 children per family, by the year 2,000 we should have just about made it back to where we are today.

So the picture is one of decline in the numbers of young people ages 12–17 through at least 1986. Thereafter the size of the turnaround depends on the number of children yet unborn.

But that is not the whole story, of course. Large as the problem is, we probably could manage it if each of us had an equal responsibility for it. But of course we won't. We are a country of movers, or more accurately, of movers and stayers, with those who move being most apt to move again, and most of the movement being made by young people. So we have the phenomenon of overall decline made sharper by out-migration in some areas, damped for others, and even reversed for some, with problems of growth still pressing on the land and its physical development. The flight from the inner cities has compounded the rate of decline for those places, even the older "inner ring" suburbs are experiencing decline. Yet farther out they still can't build sewers and roads fast enough.

But for most areas, given the size of the fall-off decline and coping with shrinkage will be on the agenda for the 1970's just as much as growth and how to accommodate to it was high on the priority list from the 40's to the mid-60's.

How we handle this phenomenon in terms of equity, how well we succeed in avoiding actions which will inflame our already critical constituencies will determine in large measure how well we preserve the quality of our entire educational effort.

DECLINING ENROLLMENT AND OPTIONS FOR UNUSED SPACE

(By Harold B. Gores)

Dr. Sargent has given us the "numbers" which will govern our response as we administer secondary education in the foreseeable future. To contemplate shrinkage in any institution as publicly revered as the American High School seems somehow un-American. Yet, in the absence of a reverse phenomenon—retroactive pregnancy—Dr. Sargent's numbers will call the tune. And it won't be easy. In the words of Kenneth Boulding, eminent economist, "All our institutions and ways of thinking survived because they were well adapted to an age of rapid growth. The prospects for the next 50 or 100 years, barring a major catastrophe such as nuclear war, suggests that we are now entering the age of slow-down." *Small Is Beautiful*

Sometime ago we asked the National Association of Home Builders where the new homes of the next decade would be built. Their answer: not in the big cities nor the suburbs nor in the rural districts back where the creeks fork, but in the small, freestanding cities. The point here is only to suggest that you watch not only the demography but the mobility of population.

Observe that almost all metropolitan areas are out-migrant. New York City is a classic case and well worth watching inasmuch as it frequently offers previews of coming attractions—good and bad. New York City's public school enrollment declined 20,000 again this year while the city itself lost 2,000 inhabitants per week. Similarly, the tide is going out in our other central cities, the difference being that the onset of decline may be somewhat delayed. In Cleveland, for example, declining enrollment is at the ninth grade. And like Cleveland, many of you have time to plan for the inevitable. Moreover, secondary schools have the advantage of observing what the elementary schools have done to adjust to the outgoing tide.

So what do you do? Here are some suggestions:

(1) Try to determine whether your school is in the path of growth, steady-state, or shrinkage. This will give you an important clue as to eventual direction. Observe whether the migrants—in or out—are representative of the general population: interregional migrants tend to be lower in ages and more highly educated, and they tend to have more young children. Or are they retirees without school-age children and bent only on living in an adult community?

(2) If, as, and when unused space opens up in your school, seize the opportunity to get the space needed to enrich the on-going program. A New York City principal is looking forward to surplus space to enable his school to abandon its revolving schedule of 12, 13, or 14 periods per day. Others, less overcrowded, see the surplus space as places for special activities that should have been provided in the first place for a complete school.

(3) If there still is space, look to the community. What are the needs of the people, not just the children—

(a) Are there socially useful activities which might well be housed in the school and whose presence would enrich the school's program?

(b) Is there space for community health, preschool and child care centers, or room for senior citizen centers? In short, can your school become a place for people, not just for pupils?

(c) Can you create a skill center, a kind of library-laboratory in which students can secure the skills that may enable their quick entry into the job market? Harding High School, Charlotte, North Carolina, has a superb installation. Nashville, Tennessee, which is planning to reduce its high schools from 23 to 12 in the next several years, has a skill center in every school and will have them in the three more high schools the metropolitan district will be building.

There are, of course, numerous other uses to which surplus space is being put—the overflow of paper work from City Hall, an extension of the local courts, offices of the United Fund agencies, public library branches, senior citizens daily luncheons, a museum, community arts center, and so on. The uses are as varied as the schools and their communities.

(4) If there still is space—a vacant wing or floor—and no civic use for it, consider outright rental to the private sector. I realize that public institutions tend to be nervous in the presence of private, for-profit corporations. In some communities the renting of public property is against the law. But if it is clearly in the public interest, especially in these times, that the taxpayers recover some of their equity in unused property, efforts to change the law seem reasonable.

(5) If the whole building becomes excess, yet is structurally sound and fit for rehabilitation and recycling, try to keep the building in use by somebody. We know from bitter experience in abandoning elementary schools that "mothballing" seldom works. We know that the best way to protect property is to fill it with people; boarding up the windows preserves neither the building nor the real estate values of its neighborhood.

If and when your secondary school has to respond to severe enrollment decline, observe that others will have had experience. For example:

(1) Dayton, Ohio—where a 2,220-student high school has been converted to a center for manpower training, adult basic education, community recreation center and the like.

(2) Kalamazoo, Michigan—where a large high school was relinquished to the city for adult education, a private school, and a senior citizens' center.

(3) Jacksonville, Florida—where an 800-pupil junior high is now a community/School Center, administrative offices, and the like.

(4) Austin, Texas—where a surplus high school is now a junior college.

(5) Sioux City, Iowa—where the high school has been turned over to the city for public recreation.

(6) Ithaca, New York—where the building was sold to an entrepreneur who recycled it to a shopping center, housing for the elderly, private offices—and returned the premises to the tax rolls.

(7) Claremont, California—the old high school is now a shopping center.

In sum:

(1) While there is no guarantee that the birthrate will not soon reverse its downward trend—though the evidence is presently to the contrary—the most prudent public policy is to hang on to your school and fill it with other compatible constituencies as the conventional students diminish in numbers. After all, most schools are paid for or will soon be. They are a valuable community resource.

(2) Find uses that will strengthen community organizations. In some situations, the principal should assume the function of broker, finding and leading the community to the schoolhouse. Here I would plead that the principal remain central to the transactions in view of the fact that with the glaring exception of housing, the country is temporarily overbuilt. At the moment, for example, there are 100 million square feet of empty commercial space (supermarkets, shopping centers, stores—plus W. T. Grant's 1,100 stores in immediate prospect). New York City has 30 million square feet of untenanted office space. High schools should be alert to compete for housing community services which otherwise may find less natural and congenial locations in the acres of empty space available to them. The principal should be the catalyst.

(3) The high school principalship is under mounting pressure from many quarters these days. Enrollment decline is a new and vexing factor which nevertheless warrants high priority among your concerns lest the principal's role as educational leader continues to erode. Seize the excess space as an opportunity to enlarge your constitutency to the benefit of both the school and the society which supports it.

EFL, with support from the Rockefeller Family Fund, is in the process of compiling

an "early warning" report to secondary schools. Many of you may be familiar with EFL's earlier report entitled *Fewer Pupils—Surplus Space*. Its focus was primarily on the elementary schools. The sequel, in collaboration with NASSP, will target in on secondary schools and we ask for your help.

In the time that remains in this session we welcome not only your comments on the subject generally, but especially do we need your testimony from the field. We would be grateful if you would alert us about any instances where surplus space has been used to extend technical-vocational "quick-entry" skill training, special services to the very young and the elderly and where major portions of the school have been converted to a community center operating while school is in session or totally free-standing.

And please don't withhold your comments about your situation just because it seems unique or even bizarre. After all, James Conant once told me that when CBS asked him to conduct a one-hour program on "*The* American High School," he refused, saying "There is no such thing as *the* American High School. High schools are as plural as is our society."

H.R. 9560, 1976 AMENDMENTS TO THE FEDERAL WATER POLLUTION CONTROL ACT

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. DON H. CLAUSEN. Mr. Speaker, Thursday when the House was considering H.R. 9560, the 1976 amendments to the Federal Water Pollution Control Act, I commented on the applicability of section 8 of H.R. 9560 to the situation in Rocky River, Ohio. My comments which were contained on page H5241 of the CONGRESSIONAL RECORD have indicated that I was including correspondence from Senator TAFT, of Ohio, regarding the applicability of section 8 to Rocky River. This material was inadvertently not presented for inclusion in the RECORD yesterday.

The following is a letter from Senator TAFT to me, an explanation prepared by Senator TAFT of the problem in Rocky River regarding eligibility for reimbursement grants under title II of the Federal Water Pollution Control Act, and a letter from the Environmental Protection Agency to Senator TAFT explaining that section 8 of H.R. 9560 in the general provisions clearly would allow Rocky River to proceed with an application for reimbursement.

The material follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., May 30, 1976.

Hon. DON CLAUSEN,
House Public Works Subcommittee on Water Resources, Washington, D.C.

DEAR DON: It is my understanding that Section 8 of H.R. 9560 as reported will correct an inequity that has existed for local areas who wish to receive reimbursement funding for construction of publicly-owned waste treatment works which initiated construction with Federal assistance granted prior to July 1, 1973.

Attached is an explanation of a problem which has existed in my State, along with a letter from the Environmental Protection Agency attesting to its interpretation of this Section of H.R. 9560.

I would appreciate it if these documents could be made a part of the RECORD during the House debate on this legislation.

Sincerely,

ROBERT TAFT, Jr.

Enclosures.

EXPLANATION

The State of Ohio's implementation plan in compliance with the Water Quality Act of 1965 required that Cuyahoga County install a secondary waste treatment facility in Rocky River by September 15, 1969. Delays occurred in the awarding of construction contracts, caused by lawsuits and difficulty in adopting an activated carbon pile system for the secondary treatment facility.

Cuyahoga County had applied for and received a Federal R & D grant to finance a full-scale demonstration project in August, 1968. The original grant of $741,000 was given a $250,000 supplement in 1970, to furnish a total grant of $991,000, of which $790,000 could be used for construction. The rest was to be used for research. This grant amounts to 25% of the total cost of the project, which is over $4 million. Other communities, which applied directly for construction grants, were given from 55% to 75% funding for their plants. However, because of an apparent gap in the law, the Cuyahoga County Plant was ruled ineligible for construction funds.

EPA told Cuyahoga there was no longer any R & D money for construction, only for research. The County was ruled ineligible for a construction grant, however, because the definition of the term "initiation of construction" was interpreted in two conflicting ways.

The Federal Water Pollution Control Act, PL 92–500, Sec. 206(a) provides 50% reimbursement for any publicly-owned treatment works on which construction was initiated after June 30, 1966 and before July 1, 1972. Section 212 of the Act (PL 92–500) defines "construction" as preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, fiscal, or economic investigation or studies, surveys, designs, plans, working drawings, specifications, procedures, or other necessary actions, erection, building acquisition, alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the foregoing items.

Under this definition of "construction", Cuyahoga County's waste treatment facility would qualify for funding, because contracts for plumbing, ventilating, electrical work and the activated carbon itself were awarded on January 27, 1972 and preliminary planning had been carried out with R & D money. The total amount of the contracts awarded was $411,000. The agreement with the general contractor also was executed on that date, but it was later voided as a result of a law suit and the final contract was awarded on October 2, 1972.

Section 35.905–47 of the Rules and Regulations published in the February 11, 1974 Federal Register which apply to PL 92–500 defines construction differently than the law does itself. The regs. define "initiation of construction" as the issuance to a construction contractor of a notice to proceed, or, if no such notice is required, the execution of a construction contract. Because the January 27 agreement with the general contractor was voided by a law suit and the final contract was not awarded until October 2, 1972, Cuyahoga was ruled ineligible. Because of the delays incurred by the Cuyahoga County group in beginning construction, the Environmental Protection Agency placed them on 180-day notice to begin construction, prior to October 18, which was too early to receive construction grants under PL 92–500, and too late to receive reimbursement grants.

I do not believe that it was the intent of the Congress in passing the Federal Water Pollution Control Act to prohibit applicants from eligibility if they began preliminary construction planning and awarded some contracts for that construction prior to the date mentioned. This was expressly stated in the law, yet the regs. do not take it into account at all.

I introduced legislation in the 93rd Congress to rectify this situation. (S. 3989). However, it is my understanding that Section 8 of H.R. 9560, as reported, will cover this matter. I would like the enclosed letter from EPA to be included in the RECORD. It attests to that understanding.

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
Washington, D.C., May 24, 1976.

Hon. ROBERT TAFT, Jr.
U.S. Senate
Washington, D.C.

DEAR SENATOR TAFT: The Administrator has asked me to respond to your letter of April 30, 1976 regarding the eligibility of the City of Rocky River, Ohio for reimbursement funding under H.R. 9560 a bill "To amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes."

As you may know, section 8 of that bill would extend the deadline by which projects must have initiated construction to be eligible for a 50 percent or 55 percent reimbursement grant from July 1, 1972, to July 1, 1973. A 90-day period is provided following enactment of the bill for newly eligible projects to file applications under this provision. The bill also provides for an increase in the level of authorization from $2.6 billion to $2.95 billion.

As noted in the City's letter of February 24, 1974 the construction contract was signed on October 2, 1972. In view of this fact, enactment of H.R. 9560 would allow Rocky River to proceed with an application for reimbursement.

I hope this information will be helpful to you, if there is any further information I can provide please do not hesitate to contact me.

Sincerely yours,

ROBERT G. RYAN,
Director, Office of Legislation.

AMENDMENT TO PLACE VOA CHARTER INTO LAW

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Ms. ABZUG. Mr. Speaker, I am planning to introduce an amendment to H.R. 13589, the U.S. Information Agency authorization bill for fiscal year 1977. My amendment would place into law the charter of the Voice of America. The three main principles of the charter are:

(1) VOA will serve as a consistently reliable and authoritative source of news. VOA news will be accurate, objective, and comprehensive.

(2) VOA will represent America, not any single segment of American society, and will therefore present a balanced and comprehensive projection of significant American thought and institutions.

(3) VOA will present the policies of the United States clearly and effectively, and will also present responsible discussion and opinion on these policies.

I would like to bring to the attention of my colleagues some background material on the first of the three principles: VOA coverage of the news.

Are VOA newcasts intended to be accurate, authoritative news broadcasts or are they intended to be official policy statements of the State Department? This is the persistent question which is asked regarding the VOA. There are several documented instances in which the VOA's news coverage was interfered with by State Department officials and American Ambassadors overseas that I would like to bring to the attention of my colleagues.

One instance was cited during hearings last year before the Government Operations Subcommittee on Government Information and Individual Rights, which I chair. Witnesses testified about interference with VOA's coverage of hard newsstories, particularly the coverage of events in Southeast Asia during the Vietnam war.

As an example, a March 19, 1975, cable from Ambassador Dean in Phnom Penh to the USIA stated:

> We strongly advise against carrying story on today's student demonstrations in Phnom Penh and student call for resignation on Lon Nol, and end to the U.S. military aid. This story coincides with a highly sensitive period here and comment from VOA could be misconstrued as representing Mission support for student demands. We recognize that the story is being carried by many commercial services.

The student demonstrations of that period were an important indication of the growing political isolation of the Lon Nol regime. They were definitely a factor to be considered in evaluating the options of American policy. The cable, and others like it, was an attempt to create a false impression that Lon Nol's support was not eroding further. This was a clear effort to make the coverage of news reflect official policy, rather than the actual political reality.

It is evident how such a practice creates a credibility problem for our Government. The commercial broadcast services all carry newsstories, but the VOA may not be broadcasting them. How can this lead foreign listeners to trust our broadcasts? Our credibility can only suffer.

A more recent illustration was reported in the Washington Post on April 21, 1976. The Post quoted a confidential memorandum from U.S. Ambassador to Uruguay, Ernest Siracusa, to VOA Director James Keogh which registered "vigorous objections" to a VOA account of alleged torture in Uruguay. On February 11, a VOA correspondent had reported on the Geneva-based International Commission of Jurists' report of political arrests, torture and press censorship in Uruguay. The Ambassador's memorandum stated that the diplomatic steps he claimed to be taking to improve human rights practices "can only be endangered if the Government interprets the VOA report, with broad audience here, as an aggressive gesture of the U.S. Government inconsistent with the manner and integrity of my approach.

I will insert the full text of the Washington Post article to permit Members to make their own judgments.

It seems to me that two themes characterize these examples and other similar instances with which I am familiar. First, policy officials attempted to interfere with VOA news coverage of legitimate political events. Second, there was considerable apprehension that VOA news broadcasts would be accepted as official American Government policy statements by foreign listeners: Such acceptance could confuse the diplomatic process.

On both of these grounds, the amendment I am proposing would strengthen the integrity of the VOA news broadcasts and, hence, the credibility of our country abroad. The principle that VOA news will be "accurate, objective, and comprehensive" should provide a clear guideline for the VOA to resist pressures to distort or coverup important news developments. During the hearings before my subcommittee, a USIA official explained that VOA and USIA officials would meet to discuss the objections to broadcasts made by American Ambassadors, to determine the validity of these objections. By giving the charter the force of law, my amendment would make it clear that the VOA's news broadcasts should be accurate, objective, and comprehensive, and thus would help the VOA to evaluate these policy objections. It would give VOA news reporters substantial support for putting forth the news as they see it.

Second, passage of the charter should help make it clear to foreign listeners of the VOA that its news is not intended to serve as a public relations outlet for State Department policy. The confusion is understandable. But the way to overcome it is not to hushup unfavorable news, as if VOA were the State Department mouthpiece, but rather to implement a separation of VOA news from general USIA public relations activities. Let us make it clear to foreign listeners what the difference really is and this, in turn, could help lessen pressure from the State Department and Ambassadors on VOA news reporting.

There was a discussion last March during the fiscal year 1976 USIA authorization debate on proposals suggested by the Murphy Commission on government reorganization and the Scranton Commission on international information, education, and cultural programs to set up the VOA as an independent broadcasting entity with an independent board of directors.

This concept received the support of the leading majority and minority members of the International Relations Subcommittee on International Operations. Unfortunately, as the report to H.R. 13589 states:

> The Executive thus far has not addressed itself to the issues raised and the recommendations made.

Therefore we are again faced with a USIA authorization bill which does not adequately address the proper role of the VOA in the USIA. I urge President Ford to respond to the Stanton Commission proposals. Until that response is forthcoming, however, I do not believe that we should leave the situation unchanged. That is why I am proposing my amendment at this time.

The three principles in my amendment were originally set forth in a nonbinding executive directive during the Eisenhower administration. My amendment would add these principles to the USIA authorization measure, thereby giving them the force of law. This is a small step, but one we should take in the absence of any action on the more wide-ranging reorganization proposals now pending.

The full text of the April 21, 1976, Washington Post article follows:

U.S. ENVOY TO URUGUAY PROTESTS VOA STORY

(By Joanne Omang)

MONTEVIDEO.—U.S. Ambassador to Uruguay Ernest Siracusa has registered "vigorous objections" to a Voice of America account of alleged torture in Uruguay, saying the Uruguayan government "will have every right to resent" the story.

The story involved a February report by the Geneva-based International Commission of Jurists (ICJ), which investigates charges of human rights violations around the world. The two-minute broadcast by VOA Geneva part-time correspondent Richard Kilian Feb. 11 contained exaggerations and distortions" of the Uruguayan situation which "can only be injurious to our friends, to our relations and to our efforts to develop useful influence on the very situation commented upon," Siracusa's confidential complaint said.

VOA is an agency of the U.S. government that has a charter to report news without slant. It has frequently run into criticism from American missions abroad that its newscasts hamper U.S. foreign policy. In one case, for example, the U.S. ambassador in a West African country complained that VOA reporting of Argentinian guerrilla operations should be curtailed because it could spark similar activities in the country he was accredited to.

In his response to Siracusa's critique of the VOA report on Uruguay, U.S. Information Agency director James Keogh agreed that [the] report should have been handled far more carefully." At the same time, Keogh maintained that "we believe the story in question accurately reflected the content of the IJC report."

Copies of Siracusa's confidential Feb. 13 complaint to Assistant Secretary of State William D. Rogers and to Keogh, and of Keogh's Feb. 17 response, were obtained by The Washington Post. The response was a milder version of an original draft submitted to Keogh by VOA officials, according to sources within the organization.

A spokesman for Keogh said the VOA director declined to comment on the matter. Siracusa could not be reached for comment.

Siracusa's five-point objection focused on Kilian's statement that the commission's report described massive arrests of political suspects, that few of the suspects survived imprisonment and that there was no press freedom in Uruguay. The story added that the jurists said church documents had been censored, and that the commission had heard a report on alleged torture in Chile the previous day.

The word "massive," Siracusa complained, "grossly exaggerated" the situation up until a recent anti-Communist drive in Uruguay. "With respect to the Communist drive, one could even question whether the arrests of several hundred persons over a five-month period could itself be called 'massive.'"

To say few of those arrested survived, he continued, was untrue and "can only be considered" by the Uruguayan government 'as a

calumny and a provocation." The question of press freedom, he added, was "a relative one," while the alleged church censorship was "a minor problem . . . worked out between the government and the [church] hierarchy."

Mentioning Chile, Siracusa concluded, was "a gratuitous effort on the part of the VOA writer to link Uruguay with the already censured ease of Chile as to human rights."

Three times in the complaint Siracusa reiterated support for the VOA's policy of disclosing such news, but said "it should have been handled far more carefully" in order not to endanger efforts he was making "through correct diplomatic channels to improve the human rights situation to the extent that there are violations. This effort can only be endangered if the government interprets the VOA report, with broad audience here, as an aggressive gesture of the U.S. order not to endanger efforts he was making and integrity of my approach," Siracusa said.

Keogh agreed that the VOA story, although an accurate description of the commission's report, "showed insufficient appreciation for sensitivities involved." He added that future reports would be "subject to closer review and cross-checking prior to use."

LAND USE AND GROWTH CONTROL UNDER FEDERALISM: THE ELUSIVE CONSENSUS

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. REES. Mr. Speaker, Dr. Werner Hirsch, professor of economics at UCLA, has distinguished himself for many years in the area of urban problems and their solutions. One of the issues that continually confronts us at the local, State, and Federal levels is the problem of land use and growth control.

I insert into the CONGRESSIONAL RECORD Dr. Hirsch's recent paper entitled "Land Use and Growth Control Under Federalism: The Elusive Consensus":

LAND USE AND GROWTH CONTROL UNDER FEDERALISM: THE ELUSIVE CONSENSUS

(By Werner Z. Hirsch)

Under our federated system of government, who should make the decisions which will determine the uses of land, in particular the kind of zoning decisions which affect the growth of towns and suburbs? Is it purely the choice of the local resident, or are there implications for the general welfare which would demand control by a higher level of government? Are there preferred control instruments and what are they? On what basis and by what criteria should such decisions be made, and what considerations and guidelines might be appropriate?

Before seeking answers to these questions, let us briefly review the history of land use control in the United States.

The impetus for government to control the use of land came relatively late in this country. This was due partly to strong notions of the sanctity of private property rights and partly to a great abundance of land which made land use conflicts less severe than in more crowded European nations. Predictably, the first attempts to regulate land use were made in the cities. Ordinances regulating building height and land use were passed in Boston and Los Angeles around 1909. More complex efforts to divide cities into districts which permitted some uses and excluded others were made in the following decade, and this technique of "zoning" was given the Supreme Court's approval in 1926. At about the same time, the Commerce Department produced a Standard Zoning Enabling Act which was adopted wholeheartedly by the states. Its key feature was complete delegation of zoning power to local jurisdictions. Given the limited function of zoning and the large distances between cities at the time, land use decisions made in one locality had little effect upon others. Thus, this large scale decentralization of power made a good deal of sense, for it gave control to those most familiar with and most affected by land use decisions.

The decades following the Standard Act saw a continuing refinement of zoning techniques designed to enable planners and local officials to better achieve the zoning goals of segregating inconsistent uses, preventing congestion, and providing for the economical distribution of public services. Soon, however, zoning began to be used as a technique to achieve other more controversial goals. At quite an early stage it was realized that zoning could separate different racial and economic groups as well as different land uses. As the suburban explosion of the 1950s began to reach significant proportions, residents of rural towns in its path realized that zoning could be used to slow the influx into their jurisdictions. Large-lot zoning, minimum floor space requirements, and trailer park bans proliferated. The late 1960s and early 1970s saw an awakening of environmental awareness, and zoning became a weapon in the battle to preserve open spaces and prevent what were perceived as unaesthetic housing tract developments. The recent movements to slow or stop population growth in many suburban communities combine the two objectives of diverting suburban expansion away from the enacting community and preserving the community's aestetic charm as a "small town" environment. The new land use control techniques which have been developed to achieve these objectives retain many traditional zoning methods, but often stretch quite remarkably the original intent of land use regulations. Building moratoriums, population caps, open space zoning ordinances, "holding zones", and phased growth ordinances have been invoked in many places where population growth threatens.

If one were to attempt a broad generalization about the historical development of the functions of zoning, one might say that what began as a tool to solve primarily local problems of incompatible land uses and congestion can, and perhaps in part already has, become a means of solving much larger regional problems of population distribution and environmental preservation. This development has paralleled a large demographic shift of population first from rural areas to central cities and later from central cities to suburbs.

In 1926, in the landmark case of *Euclid* v. *Ambler Realty Company*, the United States Supreme Court held that local zoning ordinances were clothed with a presumption of legal validity, unless demonstrated to be "clearly arbitrary and unreasonable."' At that time, Justice Sutherland indicated that the possibility should not be ruled out that in the future, ". . . the general public interest would so far outweigh the interest of the municipality that the municipality would not be allowed to stand in the way." Thus we might wonder if such changes have indeed occurred in the United States. Since 1926 the airplane, private car, telephone, radio, and television have increasingly come into common use, and Americans are changing their places of residence more frequently than ever before. In the last fifty years, the pace and volume of the flow of goods, services, ideas and people have been continuously on the rise. Consequently, a multitude of interdependencies between people and between land uses has come into being. In the middle 1970s the United States is replete with what economists refer to as externalities. Still, under federalism local decision makers, e.g., in the case of local exclusionary zoning, are inclined to neglect the costs their actions impose on others.

On first blush, therefore, we would be inclined to conclude that the day foreseen by Justice Sutherland has arrived, and that today the general public interest outweighs that of the municipality. Yet the U.S. Supreme Court has retained the position taken initially in 1926. The Court has refused, as recently as 1974, to re-examine its scope of review of zoning cases. When a district court in *Construction Industry Association of Sonoma County* v. *City of Petaluma* took a different view and held that the desire of present residents to retain the "small town character" of Petaluma was not compelling and thus invalidated the Petaluma plan, it was overturned on appeal.

Some state Supreme Courts have taken positions diametrically opposed to that of the U.S. Supreme Court. Most notable is the ruling of the New Jersey Supreme Court in *Southern County of Burlington NAACP* v. *Township of Mownt Laurel*. It held that zoning must promote the general welfare. A Municipality cannot only look to its own selfish and parochial interest and in effect build a wall around itself . . .", but must consider the needs of the region as a whole and offer an appropriate variety and choice of housing. A similar position was taken by the Pennsylvania Supreme Court in *National Land Investment Company* v. *Kohn*.

Thus a consensus has so far eluded the courts; legislatures, meanwhile have stood idly by and have done little to clarify the issues. Why? We suggest that in the United States the exclusionary zoning problem is particularly complex for at least two major reasons. Both of them in the past have either not been recognized in analyses of zoning problems, or the analysis has not been as systematic as we think it ought to be.

The first issue relates to the distinction between unique and ubiquitous resources that a jurisdiction may be trying to protect. The Santa Barbara Mission and Lake Tahoe are examples of unique resources, one historical, and the other scenic. A new entrant increases the crowding experienced by all persons in the jurisdiction, and there is no opportunity to augment the resource to avert crowding. Main Street in thousands of small American cities, on the other hand, differs very little from one to the next, and is consequently a ubiquitous resource. Fresh air, or a pleasant climate are similar ubiquitous resources which differ from unique ones essentially in being much more common and devoid of exceptional historical, scenic or aesthetic value. And such ubiquitous resources as schools, roads and parks can be augmented in case of crowding, if revenue is available.

Most importantly, local jurisdictions are motivated to control land uses for distinctly different reasons if ubiquitous rather than unique resources are involved. And this brings us to the second issue—local property taxes. In the presence of ubiquitous resources it is to a large extent the heavy reliance on the local property tax which induces local authorities to pursue an exclusionary policy; they do so as a matter of natural economic interest. Local property taxation, by its very definition is property- and not people-oriented. Thus, a person with a small inexpensive property pays much less in taxes than a neighbor with a big expensive one, although both may get the same services, e.g., send the same number of children to the same school. They therefore impose the same costs on the local jurisdiction. As a result, there is a fiscal advantage for lower and moderate income groups to move into jurisdictions composed mainly of expensive properties. Such circumstances motivate families with high value

homes to try to isolate themselves from those with low value homes. They are naturally reluctant to subsidize those living in relatively small inexpensive houses. Instead, each family seeks to live in a jurisdiction with high per capita property value and therefore low ad valorem tax rates. Although the desire of a community to retain its homogeneity in terms of race, religion, etc. also stimulates exclusionary behavior, the local property tax looms very large as a factor in exclusionary zoning.

Regardless of the rationale for exclusionary behavior, we could not defend it if there were alternatives that were preferred for their distributional and efficiency characteristics. However, the absence of exclusion, in conjunction with the local property tax has several shortcomings. First, the fiscal advantages resulting from the property tax are such that no equilibrium would exist until all communities had about the same per capital property value. The resulting "sameness" of communities would constitute an inefficiency by reducing the options available to individuals. Second, builders would choose locations for structures not for their locational advantages alone, but for locational and fiscal characteristics of the communities under consideration. Third, the opportunity for fiscal advantages in new communities will mean that the affluent, who typically are the occupants of the newest structures, will tend to relocate away from established communities. This tendency will introduce new fiscal crises to older suburban areas, like that now experienced in central cities.

Distributionally there are also problems. First, by effecting redistribution through fiscal transfers, rather than by other means, the poorest, who do not move, will be neglected. The richest, located in already exclusive communities will not be "taxed." Second, the builders of structures which "balance" communities are likely to derive most of the benefits, since tenants' alternatives will be to locate in areas which offer no fiscal transfer. As is so often the case, the consumer does not get more than he pays for.

Exclusionary ordinances related to a unique resource, on the other hand, are mainly motivated by the fact, and often justified on the ground, that excessive crowding will destroy the resource to everybody's loss. This fear is reinforced by the additional motivation provided by the local property tax as incentives for local exclusionary ordinances. In the presence of a unique resource, inefficient land uses are likely to result, because the decision maker does not confront the full costs associated with an action, and therefore will not equate the marginal social costs with the marginal social benefits of land developments.

Interestingly, many of the ill-effects surrounding land uses in both the unique and ubiquitous resources case can, in part at least, be mitigated through various land use control schemes. For example, for those unique resources which do not generate major interjurisdictional externalities, i.e., where all the side effects that these resources produce are only felt inside the given jurisdiction, monopoly control of land use can be highly efficient. Alternatively, covenants can be entered into and property rights assigned to residents or builders in a manner such that decision makers confront the full cost or actions and therefore maximize total value produced by the unique resource. In the presence of major interjurisdictional externalities, efficient and socially desirable local land use will require intervention by a higher level of government, e.g., the regional or state body representing the larger interest.

In the ubiquitous resource case three major control instruments are available: large-lot zoning, annual quotas, and entry fees, in increasing desirability as to their likely efficiency effects. Large-lot zoning and population caps can offset some of the ill-effects of the local property tax by separating structures according to value leading to an increased scope of public services and greater stability of communities. However, these instruments will also have some undesirable side effects—incorrect mix of residential and non-residential land use, overly large lots, and greater income homogeneity within communities than would be required to match choices of consumers and producers of public services.

Of these three control instruments, an entry fee charged builders in cash or kind for the issuance of a building permit is likely to be the most promising. For the sake of efficiency, fair entry fees should be set equal to the present value of the difference between the property tax revenue and the public service costs which a particular structure is expected to generate. If schedules, fairly established, are made public, discriminatory application of fees and opportunities for corruption could be kept to a minimum. Should such entry fees supplant property taxes, the inefficiencies associated with the latter would disappear.

What are the policy implications? Insofar as legislative action is concerned, at least three recommendations can be made.

First, the legislature could revamp the tax system so as to reduce, if not eliminate, the use of the local property tax. Such a step, by the way would be desirable for many other reasons besides those of concern to us here. For example, if the federal government were to institute a negative income tax, which would place a floor below which no family's income was permitted to fall, local governments could employ entry fees or shift from property taxes to user charges. Such a scheme would substantially relieve the burden of central cities in dealing with the problems of the poor without being unfair to them.

As an alternative, local lump sum taxes could be integrated with a federal tax credit which varies inversely with the person's income. Such a scheme would have the additional advantage over current tax schemes that poor people would not necessarily have to move their residences in order to avail themselves of fiscal advantages.

If heterogeneity in communities is itself a social objective, an entry fee scheme for ubiquitous resource cases would be promising, if the federal government were willing to subsidize the fee. With such subsidies given only to deserving families who move into higher income jurisdictions, such communities would have no reasonable objection to low income immigrants, since the tax base would not be threatened. High quality public services could be continued. Therefore, legislative action could take the form of permitting differential entry fees which capture the value of local property tax benefits that builders in the community would otherwise receive.

Finally, legislative action might permit and even encourage monopoly control in unique resource cases where interjurisdictional externalities are minor or absent. In the present of widespread interjurisdictional externalities, the legislature could provide for regional decision making and/or readily enforceable covenants.

Our analysis has also a number of implications for the courts. We would argue that courts are well advised to separate between unique and ubiquitous resource cases. They might give particular attention to not permitting restrictions which do not demonstrably aim at protecting a unique resource and are likely to confine its enjoyment to a small, and usually rich, population. Once they have established that a resource is indeed unique, they should not hesitate to permit certain types of monopoly control over the resource and enforce appropriate covenants and property right assignments to residents or builders.

Finally, in reviewing large-lot zoning in ubiquitous resource cases, the courts might give recognition to the fact that such zoning schemes in the presence of local property taxation are less a matter of malicious behavior by excluding jurisdictions than of their pursuing natural economic interests. Moreover, under certain circumstances some excluding behavior by jurisdictions may be less odious than often assumed, since it might counteract inefficiencies resulting from the property tax. Where crowding relates to ubiquitous resources, courts should favor fair and openly established entry fees over all other land use control instruments.

To summarize: Changes in land use in any highly urbanized society affect more than the parcel of private property whose use has been altered. Under federalism, coping with such external effects is complicated, since decisions in one jurisdiction often affect the welfare of those in other jurisdictions. Heavy reliance on local property taxes causes many citizens to seek residence in high income communities—often suburbs—and to exclude potential newcomers. While for the ubiquitous resource case exclusion is an attempt to protect the tax base, in the presence of unique resources for fear of excessive crowding is the major impetus. Various exclusionary procedures are natural outgrowths of these basic tendencies.

The down-grading of local property taxation is a particularly potent countermeasure, although politically unattractive. In the absence of such a step, exclusionary procedures are not only difficult to ban, but such a ban is likely to be undesirable. Some exclusionary instruments tend to correct parts of the ill-effects of the local property tax and crowding. State and local officials could serve the nation well by recognizing these circumstances, and cooperating in providing authoritative guide-lines for the control of ubiquitous and unique resources. Such guide-lines should authorize local governments to charge builders appropriate building fees in return for issuance of a building permit—a most propitious step.

NIKKI GIOVANNI SPEAKS ON THE BICENTENNIAL

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. RANGEL. Mr. Speaker, during the last 3 years of planning throughout the Nation for celebration of our 200th birthday, there has been a great debate within the black community. The debate has been on the issue of whether or not black Americans ought to be celebrating 200 years of independence when they are not yet beneficiaries of the full promise of the world's most advanced democracy. The pursuit of life, liberty, and happiness is still restricted for 25 million black Americans; the median income of blacks is only 58 percent of that for whites, their unemployment rates are still double those for other Americans, and the Chief Executive of the Nation continues to propose a turning back of the clock on civil rights matters.

No wonder the division, the ambivalence, and the reluctance of the black community to embrace the Bicentennial celebration with enthusiasm. Nevertheless, as the moment of celebration comes

closer, there appears to be an emerging consensus among Blacks that they will not forfeit their right to celebrate for they too have paid their dues—in fact, more than their share. Blacks will celebrate though for somewhere different reasons than the majority population. An essential motive behind black participation in the Bicentennial will be hope in the future of America; that she will one day soon live up to her creed and fulfill her promise to all Americans.

Mr. Speaker, author and poet Nikki Giovanni recently told it as it is for her. I believe that her personal expressions mirror, to a large extent, the feelings of most black Americans. Therefore, Mr. Speaker, I insert into the RECORD the following article by Ms. Giovanni which appeared in the February 22, 1976, edition of the Arkansas Gazette:

THE BICENTENNIAL IS TIME TO TAKE POSITIVE ACTION

(By Nikki Giovanni)

Only two things kept me going through the last quarter of '75—the World Series and the prospect of Christmas. I don't care what anyone says about Christmas; I know it's over-commercialized, and under-cherished by most, but I still love it. And I had the perfect Series bet—Cincinnati in seven games. A little luck and a little pluck can get you through almost everything. I feel the same way about the Bicentennial. I like it.

Coming as I do, from a people noted for love of celebration, I would not demean the black love of party by eschewing the 200th birthday. In fact, the first blacks set foot in this nation in 1617, two years before the first successful white settlement. And recent archeological expeditions have uncovered artifacts indicating a black presence in the New World many years before that.

For those who ascribe to the old Atlantis theory, there is even more evidence going back millions of years that the New World and the Old were all one land mass thereby permitting those we would consider Africans to travel by foot into what we now call America. A more recent and better defined solution of black and Asiatic presence is found, of course, in the Bering Straits. It's believed the Eskimos traversed the frozen tundra to the New World.

It's not, in other words, implausible that blacks too followed the yellow brick road from Arabia to China to the Bering Straits. However, what happened a million years or so ago, while important, has nothing to do with my love of the Bicentennial.

Rev. James Cleveland, the renowned gospel singer said of the Bicentennial, "It's the only one I'll have." He could have added, as did Theodore Roosevelt of the Spanish-American War. "It's not much of a war but . . ." There is a certain truth to putting those statements together. "It's not much" but then freedom is difficult to celebrate. Most Americans, expecting that 28 per cent which polls say don't know what events occurred in 1776, would prefer to celebrate the Boston Tea Party than write their Congressman concerning taxation. Most Americans would rather celebrate the Battle of Bunker Hill than do battle with run away agencies such as the CIA, the FBI or the IRS.

As a member of one of the most oppressed minorities—if oppression can indeed be compared—I celebrate the Bicentennial in the tradition of unnamed and unheraled men and women who, finding themselves on shore, determined not only to survive but make a home. I celebrate in the tradition of Nat Turner and Frederick Douglass who presented two sides of the question—violence or reason. I celebrate in the tradition of Harriet Tubman who voted with her feet for freedom and returned to take over 100 men and women out of slavery with her. I celebrate with the more modern tradition of W. E. B. Dubois who proclaimed "The problem of the 20th Century is the problem of the color line." Everyone thought he was talking to Caucasians, but he was talking to colored peoples too.

I'm glad to have lived in an age of Thurgood Marshall and Malcolm X. I once shook the hand of Martin Luther King Jr. and nothing that the FBI can say will change that pride I felt when he looked at me, a high school junior, and said "Thank you," to my "I thought your speech was terrific." I remember my anger and shame and pure rage when the four girls were killed in Sunday school and I didn't want that to happen to me.

There are puzzlement too. Why, after 20 years of law, are schools and housing, not only for blacks but for the majority of Americans, so bad? Why are those who fought so long and so hard for the franchise now so reluctant to use it? I'm puzzled, not that we don't turn flip-flops in the streets, but that we, as a nation, care so little for rights and privileges won at so high a price over the last 1000 years that we allow our politicians to lie to us. I'm amazed that women today still are fighting for the control of their own bodies and possible off-spring and that grown men cannot find jobs.

I celebrate the Bicentennial not only for what we as a nation have done but for what we shall do. We shall create a nation of honest people where the rule of law is more than an expression from House and Senate committees while they lie. We shall create a nation where education for the masses is not left to television commercials, but where the national priority is education and not welfare. I celebrate these 200 years because my parents and grandparents and theirs and untold millions have paid for my right to celebrate.

Just because white Americans say this is a white nation doesn't make it so. The United States has been, is, and will always be multi-racial, multi-national, multi-ethnic, multi-religious. I celebrate the Bicentennial because as my mother explained her love for me—it's mine.

EXPANDED SBA ACT BOOSTS LIMITATIONS FOR FINANCIAL ASSISTANCE PROGRAM

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. EVINS of Tennessee. Mr. Speaker, in connection with the amendments to the Small Business Act and the Small Business Investment Act considered on the floor today, I wanted to provide additional information for my colleagues and other interested citizens on the purpose and scope of this broadened, expanded, and liberalized bill.

The purpose of the bill as set out in the report by the Small Business Committee is as follows:

THE PURPOSE OF THE BILL

The bill, H.R. 13567, is divided in 8 Titles, all of which were extensively studied by your Committee.

Title I of the bill increases SBA's authorizations and limitations for fiscal year 1977 as needed and establishes operating levels for all of SBA's programs for fiscal years 1978 and 1979.

Title II of the bill makes miscellaneous conforming and technical amendments to the Small Business Act and the Small Business Investment Act of 1958.

Title III of the bill authorizes SBA to provide financial assistance to small homebuilders; enlarges the eligibility for SBA compliance loans; authorizes up to a 5-year moratorium on repayment of SBA loans; prohibits SBA from discriminating against food producers by arbitrarily denying them the assistance which is available to other small businesses; and increases the maximum amount of financial assistance which may be made available to any one borrower under SBA's regular business loan program, economic opportunity loan program and development company loan program.

Title IV of the bill authorizes SBA to make displaced business loans to a small concern which has been displaced by a project by a state or local government; authorizes SBA to make economic injury loans to small business concerns in an area affected by a natural disaster upon the request of the Governor of the state involved; authorizes the President to undertake a comprehensive review of all Federal disaster loan authorities and make a report thereon to Congress not later than October 1, 1976; and establishes in the Small Business Act the interest rate provisions for natural disaster loans made by SBA.

Title V of the bill expands SBA's certificate of competency program by including the final determination of all elements of responsibility and eligibility of a small business for purposes of bidding on Government contracts.

Title VI of the bill creates a new financing program for existing small businesses in meeting pollution control requirements.

Title VII of the bill establishes within SBA an Office of Advocacy to be managed by a Chief Counsel for Advocacy, appointed by the President and confirmed by the Senate, and directs the Office to do a study of small business needs and to report to the President and Congress thereon.

Title VIII of the bill directs Federal agencies, to the extent feasible, to divide small business set-aside contracts into amounts of less than $1,000,000 each.

This bill would establish increased authorized limitations on financial assistance and was requested by the administration. The increased authorizations are as follow:

Increase the authorization for appropriations for the surety bond guarantee fund from $35 million to $71 million;

Increase the limitation under the business loan and investment fund from $6 billion to $8 billion;

Increase the sublimitation on economic opportunity loans from $450 million to $525 million; and

Increase the sublimitation on financial assistance by small business investment companies from $725 million to $1,100 million.

These amounts would allow the Small Business Administration to operate its programs through fiscal year 1977 in the public interest.

PERSONAL EXPLANATION

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. DODD. Mr. Speaker, during debate on an amendment I offered to H.R. 13350, the Energy Research and Devel-

opment Administration authorization, I cited two court cases which upheld public disclosure laws. I cited these cases incorrectly as U.S. Supreme Court cases. Both of these cases are State supreme court cases rather than U.S. Supreme Court decisions. The first Montgomery County, Md., against Welsh is from the Maryland Court of Appeals and the second case Illinois State Employees Association against Walker is from the Illinois State Supreme Court.

THE LIBERAL ECONOMISTS ARE AGAINST HUMPHREY-HAWKINS BILL

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. QUIE. Mr. Speaker, an article in the May 31 issue of Business Week states that a number of liberal economists have come out against the Humphrey-Hawkins bill because it can achieve the goal of 3 percent unemployment only at the cost of a high rate of inflation. The article points out that the bill would require the President, the Council of Economic Advisers, and the Federal Reserve Board to devise a "full employment and balanced growth plan." The scope of the bill is obviously beyond the jurisdiction of just the Education and Labor Committee so I urge my colleagues to read the article and then help bring about consideration by other House committees having jurisdiction.

WHAT HUMPHREY-HAWKINS WOULD MEAN

Despite the economy's strong recovery in the past year, the Democrats believe that the critical issue in the Presidential campaign is still unemployment. To sharpen the issue, they have made the proposed Full Employment & Balanced Growth Act of 1976, sponsored by Senator Hubert H. Humphrey (D-Minn.) and Representative Augustus F. Hawkins (D-Calif.), their vehicle for convincing the American public that they really care, while the Republicans do not. Indeed, Democratic leaders in Congress are counting on President Ford to veto the bill, which they are certain will pass both houses, and are planning to write it into their party platform to keep the issue hot.

One trouble with the Democrats' script, however, is that, while it may have wide political appeal, Humphrey-Hawkins is playing badly with a crowd that should have loved a full-employment bill: the liberal economics establishment that normally provides the ideas and intellectual muscle for the Democrats' legislative programs.

The critics read like a *Who's Who* of liberal economics; Charles L. Schultze of the Brookings Institution, who says, "Call me a friendly critic"; his Brookings colleague Arthur Okun, former Democratic chairman of the Council of Economic Advisers, who concedes that the bill is "beautiful poetry"; Franco Modigliani of MIT; former CEA member James Tobin of Yale; manpower expert Sar Levitan of George Washington University; and Otto Eckstein of Harvard, another Democratic CEA veteran.

INFLATION FEAR

Most of them either decline to endorse Humphrey-Hawkins in its present form, or do so with many qualifications. Their biggest concern is that the bill would be wildly inflationary yet makes no provision for dealing with a potential wage-price explosion. In deference to the AFL–CIO, it omits any reference to wage and price controls or, for that matter, to any form of incomes policy.

Humphrey-Hawkins would establish "the right of all adult Americans able, willing, and seeking work to opportunities for useful paid employment at fair rates of compensation." But unlike the Employment Act of 1946 which stated the same general goal, the bill sets up a mandatory process for achieving it and puts some hard numbers on the objective. It specifies full employment as a 3% adult unemployment rate, and it orders the coordination of all government economic policy to achieve this level within four years of enactment. In addition, the bill would:

Put the government into economic planning through an elaborate process that would involve the President, his CEA, Congress, the Federal Reserve Board, and a bevy of advisory groups. They would be required to come up with an annual "full employment and balanced growth plan."

Require the government to take steps, primarily through coordinated fiscal and monetary policy, to fulfill the plan, and if the long-term goals cannot be met in a given year, require the government to act as employer of last resort, using public service job programs.

Mandate that pay scales for jobs sponsored by the government reflect prevailing wage rates.

The 50-page bill contains a great deal of detail and would require numerous pieces of enabling legislation to implement it fully. But even in its broad outlines, most economists consider it overambitious. Currently, for example, the House version defines an "adult" as 16 years old and above. Humhprey wants to raise that to 18, but even at 18, the 3% adult unemployment target implies an over-all rate of roughly 3.5%, according to both Administration and Congressional economists. And the U.S. has never achieved a 3.5 rate over a sustained period.

In fact, and regardless of whether an adult is defined as 16 or 18, achievement of 3% would require phenomenal growth rates in gross national product. Says Levitan: "You'd have to keep real GNP growing at least 7.5% a year through 1980, and we've never grown so fast for so long a period."

PREDICTION

No one really knows what kind of inflation would occur if the economy steamed up that much, but economists are sure it would be explosive. Michael Wachter of the University of Pennsylvania, a member of Democrat Jimmy Carter's economic advisory team, estimates that "an attempt to get down to 3% unemployment by 1980 or so chiefly with aggregate-demand stimulus could cause inflation of 15% or more."

Carter has endorsed Humphrey-Hawkins in principle, but Wachter fears that the bill could turn out to be "an albatross for Jimmy, assuming he's nominated," if the bill's proponents succeed in their efforts to write it into the party's platform.

"Given the economics profession's widespread opposition to the bill in its present form," says Wachter, "it will be a liability for Carter. It's the wrong bill to deal with the problems that we face. The Democrats should be putting real issues into the platform—measures that deal specifically with structural unemployment and supply problems. This is what they should test Ford on."

From Levitan, the inflation warning comes through even more alarmingly: "We can do much more to reduce unemployment than Ford wants to do, but not this way. What Congress is doing with this bill is shooting at a rapidly moving target." As if 3% were not tough enough, says Levitan, the wage provisions would make public jobs so attractive that business would be forced to raise wages to attract workers back to the private sector. This, he says, would in turn "bring people out of the woodwork and into the job market. As a result, the labor force will grow—without exaggeration—by 3% to 4% more than it would otherwise."

Schultze, too, says that the wage provision would set a new general wage pattern and be too inflationary. To deal with inflation, he advocates some form of incomes policy short of controls, "perhaps a social contract arrangement such as the British are trying, where tax cuts are given in return for wage moderation." In addition, he would like to see the targets in the bill made "less specific."

Similarly, Tobin says he "would look more kindly on the bill if it had an incomes policy alternative," but he adds that "this mechanism should be available at the start of such an effort, not when the economy gets into trouble." Tobin and Wachter both argue that the structural reforms suggested in the bill should come into play at the outset, or else Humphrey-Hawkins would merely pump up the economy and never get to underlying labor market problems.

RUBBING NOSES

With all the bill's flaws, it is, as Okun says, "the litmus test for liberalism in economics." And most of the liberals do have some good things to say about it. Schultze says, "We must keep rubbing the government's nose in the problem of chronic unemployment." All agree on the need for a government process that coordinates macro and microeconomic policies, with special emphasis, as Eckstein puts it, "on making the Fed cooperate in achieving over-all economic goals instead of just reacting to weekly data."

Eckstein thinks that Humphrey-Hawkins involves "principally a set of plans, studies, reports, and advisers to advise the advisers." But he also sees it as an alternative "to telling the public we've got to live with high unemployment for years and are so intellectually bankrupt we won't even try to do something."

Does Eckstein endorse the bill? "No," he says, "I don't have to. I'm not running for President."

TWO HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago today, on June 7, 1776, Richard Henry Lee, of Virginia, introduced the following resolution in the Continental Congress:

That these United Colonies are, and of right ought to be, free and independent States, that they are absolved from all allegiance to the British Crown, and that all political connection between them and the State of Great Britain is, and ought to be, totally dissolved.

That it is expedient forthwith to take the most effectual measures for forming foreign Alliances.

That a plan of confederation be prepared and transmitted to the respective Colonies for their consideration and approbation.